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Sixty-fourth session
Item 103 of the preliminary list*
Crime prevention and criminal justice

Improving the coordination of efforts against trafficking in persons

Report of the Secretary-General

Summary

Pursuant to General Assembly resolution 63/194, the present report summarizes the work done by the United Nations Office on Drugs and Crime to implement that resolution and contains proposals on strengthening the capacities of the Office for the efficient implementation of its coordination functions.

1. In its resolution 63/194, the General Assembly called upon the Secretary-General to collect the views of all stakeholders, including Member States and regional and international organizations, on how to achieve the full and effective coordination of efforts against trafficking in persons of all Member States, organizations and machineries, treaty bodies and all other partners within and outside the United Nations system, including civil society, and to ensure the full and effective implementation of all legal instruments relevant to trafficking in persons, particularly the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking in Persons Protocol), and to submit a background paper to the General Assembly at its sixty-third session.

2. The Secretary-General presented the background paper to the General Assembly on 5 May 2009, summarizing the views of a broad and diverse group of Member States, international organizations and civil society stakeholders on the aforementioned issues. The background paper also summarized responses addressing the advisability of adopting a global plan of action on preventing trafficking in persons, prosecuting traffickers and protecting and assisting victims of

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trafficking, including its potential value in ensuring efficient and coordinated action against trafficking in persons.

3. The background paper informed the interactive dialogue of the General Assembly on the theme "Taking collective action to end human trafficking", held on 13 May 2009 in New York. In the course of the dialogue, delegations considered the advisability of a global plan of action. Overall, there was consensus on the need for greater political will and commitment to prevent and combat trafficking in persons, the need to strengthen international efforts and collective action by Member States and other stakeholders and the need to ensure universal ratification of the United Nations Convention against Transnational Organized Crime, the Trafficking in Persons Protocol and other relevant international instruments.

4. The main arguments presented by Member States in favour of a global plan of action were that it would foster the necessary political will and commitment at the global level and would provide a comprehensive strategic framework and contribute to greater coordination of collective efforts by Member States, the United Nations system and non-State actors. Member States also argued that a global plan of action would contribute towards and complement the implementation of existing international instruments and mechanisms and bridge the gaps among them. It would promote international cooperation and provide an opportunity to link preventing and combating trafficking in persons to other internationally agreed goals. It was also argued that a global plan of action would prescribe forward-looking operational measures, targets and indicators of achievement so that the international community could assess progress and redirect policies accordingly, as well as improve the effectiveness of national, regional and international responses.

5. The participants in the thematic dialogue stressed that the development and adoption of a global plan of action should be based on a broad consensus among the international community and on the principle of shared responsibility. It should be transparent and ensure ownership by all stakeholders. Participants also underscored that a global plan of action should provide a situation analysis, a road map showing what needs to be achieved and the corresponding resource requirements. It should complement existing regional and international instruments, address conceptual gaps in line with national and regional policies and ensure a human rights based approach to ensure the full protection of victims. The global plan of action should also address the root causes of trafficking and the demand that fosters exploitation.

6. During the interactive thematic dialogue, a number of delegations raised concerns as to the need for and the added value of a global plan of action. The main arguments presented include the concern that a global plan of action might duplicate existing international instruments and that the priority should be to strengthen the implementation of such instruments and establish a stringent monitoring mechanism for the United Nations Convention against Transnational Organized Crime and the Trafficking in Persons Protocol. Member States also recalled that the Conference of the Parties to the Convention and its Working Group on Trafficking in Persons already offer a platform for coordination. They underscored that the development and negotiation of a global plan of action would divert time and resources from the implementation of existing international instruments and the delivery of technical assistance. Questions were also raised as to how the global plan of action would be reconciled with existing national and regional plans of action.

7. The Vice-President of the General Assembly, speaking on behalf of the President, concluded the interactive thematic dialogue by committing to work with Member States to develop a global plan of action to bring together punitive and restorative measures as well as the development, justice and security dimensions.

United Nations Global Initiative to Fight Human Trafficking

8. The United Nations Global Initiative to Fight Human Trafficking (UN.GIFT) is managed by the United Nations Office on Drugs and Crime (UNODC) in cooperation with the International Labour Organization, the International Organization for Migration, the Office of the United Nations High Commissioner for Human Rights, the Organization for Security and Cooperation in Europe and the United Nations Children's Fund.

9. As a follow-up to the Vienna Forum to Fight Human Trafficking, held from 13 to 15 February 2008, organized under the auspices of UN.GIFT, UNODC continued to hold regular consultations with Member States. A draft work programme of UN.GIFT was discussed during an informal consultation held on 28 May 2008, and regular updates and reports have been made available, including a presentation to the open-ended interim Working Group on Trafficking in Persons, when it met on 14 and 15 April 2009.

10. UN.GIFT continues to operate as a technical assistance project within the mandates agreed by the relevant governing bodies, and its work programme will continue to be implemented until its programmed activities have been completed.

Inter-Agency Cooperation Group against Trafficking in Persons

11. The Executive Director of UNODC is entrusted with the coordination of the activities of the Inter-Agency Cooperation Group against Trafficking in Persons (ICAT). ICAT aims to promote coordination and cooperation to increase the efficiency and quality of anti-human trafficking programmes and address the challenges of duplication of efforts and rationalization of resources.

12. The last meeting of ICAT was held on 22 and 23 April 2009 in Vienna. It was open to its current members, including organizations outside the United Nations system, and to Member States. The meeting discussed possible approaches to strengthen the coordination efforts of ICAT against trafficking in persons. The outcome of the meeting was shared with Member States at a meeting on 23 April 2009.

13. ICAT members reiterated the need for regular meetings of the Group and that the meetings should have concrete objectives and outcomes. The goal of coordination carried out under ICAT should be to increase operational synergies within the Group. ICAT agreed on the concept of a rotating Chair and agreed to host meetings in different venues to increase ownership by the participating organizations. It was also agreed that the meetings would focus on different aspects of trafficking in persons to make the most of the different mandates of member organizations. UNODC would maintain its mandated role within ICAT.

14. ICAT members also agreed that its coordination activities should be carried out at the global level as well as at the regional and national levels, through a phased approach. ICAT is exploring synergies that can be created with existing

coordination mechanisms at all levels to enhance coordination, including the use of existing electronic resource networks to increase information exchange. The Group agreed to publish a technical assistance toolkit containing resources and best practices recognized by all organizations and to identify opportunities for joint ICAT activities and statements. The Group recalled that it seeks funding, as all of its activities depend on extrabudgetary resources.

15. UNODC proposed to host the next ICAT meeting in October 2010 in the margins of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime and its supplementing Protocols.

Working Group on Trafficking in Persons

16. At its fourth session, held in Vienna from 8 to 17 October 2008, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime adopted decision 4/4. In that decision, the Conference decided to establish an open-ended interim working group to advise and assist the Conference in the implementation of its mandate with regard to the Trafficking in Persons Protocol. It also decided that the working group should perform the following functions:

(a) Facilitate implementation of the Trafficking in Persons Protocol through the exchange of experience and practices between experts and practitioners in this area, including by contributing to the identification of weaknesses, gaps and challenges;

(b) Make recommendations to the Conference on how States parties can better implement the provisions of the Protocol;

(c) Assist the Conference in providing guidance to its secretariat on its activities relating to the implementation of the Protocol;

(d) Make recommendations to the Conference on how it can better coordinate with the various international bodies combating trafficking in persons with respect to implementing, supporting and promoting the Protocol.

17. The Conference further decided that the working group should meet during the fifth session of the Conference and should hold at least one intersessional meeting before that session. The first meeting of the Working Group on Trafficking in Persons was held in Vienna on 14 and 15 April 2009. A second meeting of the Working Group will be held in Vienna from 27 to 29 January 2010.

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Item 77 (a) of the preliminary list*
Oceans and the law of the sea

Report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its tenth meeting

Letter dated 10 July 2009 from the Co-Chairpersons of the Consultative Process addressed to the President of the General Assembly

Pursuant to General Assembly resolutions 54/33 of 24 November 1999, 57/141 of 12 December 2002, 60/30 of 29 November 2005 and 63/111 of 5 December 2008, we were appointed as the Co-Chairpersons of the tenth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea.

We have the honour to submit to you the attached report on the work of the Consultative Process at its tenth meeting, which was held at United Nations Headquarters from 17 to 19 June 2009. The outcome of the meeting consists of our summary of the discussions held.

We kindly request that the present letter and the report of the Consultative Process be circulated as a document of the sixty-fourth session of the General Assembly under the agenda item entitled "Oceans and the law of the sea".

(*Signed*) Paul **Badji**
Don **MacKay**
Co-Chairpersons

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Tenth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea

(17-19 June 2009)

Co-chairpersons' summary of discussions[1]

1. The tenth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea was held from 17 to 19 June 2009 and, pursuant to General Assembly resolution 63/111, focused its discussions on the implementation of the outcomes of the Consultative Process, including a review of its achievements and shortcomings in its first nine meetings.

2. The meeting was attended by representatives of 103 States, 28 intergovernmental organizations and other bodies and 12 non-governmental organizations.

3. The following supporting documentation was available to the meeting: (a) report of the Secretary-General on oceans and the law of the sea (A/64/66); and (b) format and annotated provisional agenda of the meeting (A/AC.259/L.10).

4. The meeting also had before it submissions from the Group of 77 and China (A/AC.259/19) and Nigeria (A/AC.259/18).

Agenda items 1 and 2: Opening of the meeting and adoption of the agenda

5. The meeting was opened by Patricia O'Brien, Under-Secretary-General for Legal Affairs, The Legal Counsel, and by Sha Zukang, Under-Secretary-General for Economic and Social Affairs. In their introductory remarks, they both highlighted the important role and contribution of the Consultative Process in promoting discussions on the multidimensional and multidisciplinary aspects of oceans and the law of the sea and conveying issues for action to the General Assembly.

6. The two Co-Chairpersons, Paul Badji (Senegal) and Don MacKay (New Zealand) noted the timely topic of focus, which presented delegations with an opportunity to take stock and evaluate, in a comprehensive manner, the performance of the Consultative Process.

7. The meeting adopted the format and annotated provisional agenda of the meeting and approved the proposed organization of work.

Agenda item 3: General exchange of views

8. Item 3 was divided into two plenary sessions. Delegations focused their interventions on the topic of focus and exchanged views on issues that could benefit from attention in the future work of the General Assembly on oceans and the law of the sea.

[1] The summary is intended for reference purposes only and not as a record of the discussions.

9. The discussions held on the area of focus at the plenary meetings and within the panels are reflected in paragraphs 14 to 73 below.

10. In the course of the discussions, delegations expressed their appreciation for the report of the Secretary-General on oceans and the law of the sea. It was noted that the report provided a good overview of the way in which outcomes of the meetings of the Consultative Process had been incorporated into relevant General Assembly resolutions, and described the major actions subsequently taken by States and intergovernmental organizations. The view was expressed that the report sometimes had not been able to present the differing viewpoints that might exist on certain issues, raising concerns about setting the balance necessary for an objective debate. In that regard, reference was made to the inability to finalize agreed elements at the sixth and eighth meetings of the Consultative Process.

Area of focus: Implementation of the outcomes of the Consultative Process, including a review of its achievements and shortcomings in its first nine meetings

11. In accordance with the annotated agenda, discussions were structured around three segments: mandate, objectives and role of the Consultative Process; outcomes of the Consultative Process and their implementation; and format and methods of work of the Consultative Process. The first two segments were launched by presentations from panellists (see paragraphs 12 and 13 below).[2] The presentations were followed by discussions, during which delegations requested clarifications from the panellists.

1. Panel presentations

12. The first segment consisted of an overview of the mandate, objectives and role of the Consultative Process presented by Alan Simcock (former Co-Chair of the first three meetings of the Consultative Process) and Satya N. Nandan (former Secretary-General, International Seabed Authority and former Under-Secretary-General and Special Representative of the Secretary-General in the then Office of Ocean Affairs and the Law of the Sea, currently Chairman of the Western and Central Pacific Fisheries Commission).

13. The second segment, on outcomes of the Consultative Process and their implementation, was launched by five presentations made by Agustín Blanco-Bazán, Senior Deputy Director, Legal Affairs Division, International Maritime Organization (IMO); Matthew Gianni, Political and Policy Advisor, Natural Resources Defence Council, and Co-Founder, Deep Sea Conservation Coalition; Sebastian Mathew, Advisor, International Collective in Support of Fishworkers; Olajide Ayinla, Executive Director and Chief Executive Officer, Nigerian Institute for Oceanography and Marine Research; and Andrew Hudson, Principal Technical Advisor, International Waters, United Nations Development Programme and Deputy Coordinator of UN-Oceans.

[2] Available panel presentations and abstracts thereof can be accessed at www.un.org/depts/los/consultative_process/consultative_process.htm.

2. Plenary and panel discussions

(a) Mandate, objectives and role of the Consultative Process

14. Several delegations emphasized their general support for the Consultative Process as a unique forum for general discussions on comprehensive issues related to oceans and the law of the sea. It was noted that, prior to the establishment of the Consultative Process, there had been no forum at the international level for ocean-related discussions and for information exchanges between policymakers and experts.

15. Many delegations made reference to the history of the establishment of the Consultative Process. It was recalled that, in resolution 54/33, the General Assembly had decided, consistent with the legal framework provided by the United Nations Convention on the Law of the Sea and the goals of chapter 17 of Agenda 21, to establish the Consultative Process in order to facilitate the annual review by the Assembly, in an effective and constructive manner, of developments in ocean affairs by considering the Secretary-General's report and suggesting particular issues to be considered by the Assembly with an emphasis on areas where coordination and cooperation at the intergovernmental and inter-agency levels should be enhanced.

16. Many delegations also recalled decision 7/1 of the Commission on Sustainable Development.[3] Several delegations noted the conclusion of the Commission that, because of the complex and interrelated nature of the oceans, oceans and seas presented a special case in respect of the need for international coordination and cooperation, and its recommendation that an open-ended informal consultative process be established with the sole function of facilitating the effective and constructive consideration of matters within the General Assembly's existing mandate.

17. The principles contained in the decision of the Commission on Sustainable Development were underscored by many delegations, for example, that the creation of new institutions should be avoided and the exercise should not lead to the duplication and overlapping of current negotiations and particular debates taking place in specialized forums; that it was not intended for the General Assembly to pursue legal or juridical coordination among the different legal instruments; and that the Assembly should bear in mind the differing characteristics and needs of the different regions of the world. The view was expressed that decision 7/1 laid out the general considerations that should guide the work of the Consultative Process, including the notion that the United Nations Convention on the Law of the Sea set out the overall legal framework within which all activities in oceans and seas must be considered; that chapter 17 of Agenda 21 remained the fundamental programme of action for achieving sustainable development in respect to oceans and seas; and that neither instrument took priority. A statement was made that decision 7/1 barred the Consultative Process from considering issues addressed in specialized forums. Conversely, it was pointed out that that aspect of decision 7/1 was not specific to the Consultative Process, and that indeed the Consultative Process should provide an overview of all ocean issues in order to encourage cooperation and coordination.

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[3] *Official Records of the Economic and Social Council, 1999, Supplement No. 9* (E/1999/29), chap. I, sect. C, decision 7/1.

18. In terms of the objectives and role of the Consultative Process, several delegations emphasized that the vantage point of sustainable development was the perspective that conferred to the Consultative Process its unique character. They further noted that the open nature of the Consultative Process provided an opportunity for the exchange of views and sharing of information on oceans affairs from the prism of the three pillars of sustainable development. Those delegations emphasized that the Consultative Process should retrieve its original mandate, particularly in light of the multiple crises that threaten the attainment of many social, economic and environmental goals.

19. Many delegations noted that, although the Consultative Process had been established of the recommendation of the Commission on Sustainable Development, there had not been any interaction with the Commission so far. They noted that the Commission on Sustainable Development would not consider issues relating to oceans and the seas until 2014. They also stressed that, without the Consultative Process, there would have been no other forum in the United Nations system where issues relating to oceans and seas would have been considered from the perspective of sustainable development for a period of 15 years.

20. Several delegations emphasized that the Consultative Process was the only forum at the international level that dealt with ocean issues in an integrated manner, and noted the importance of that function, given the global ocean agenda. A view was expressed that the integrated approach had led to the consideration of different sectors and important transsectoral issues. It was also noted that the need for Governments and the wider international community to work together in an integrated way was as important today as in 1999.

21. It was also emphasized that the Consultative Process should not provide interpretations of the law of the sea and that the outcomes of the Consultative Process should not be considered by judicial bodies, such as the International Tribunal for the Law of the Sea.

22. In response to a query as to whether the Consultative Process had undergone a name change within the first two meetings, it was clarified that General Assembly resolution 54/33 did not provide a short title for the Consultative Process. Therefore, the co-chairs made a number of attempts to develop a short title, starting with the "United Nations Informal Process on Oceans". At the first meeting a number of delegations requested the inclusion of the words "law of the sea" in the title. The reference was, therefore, included. At the second meeting, other delegations requested the removal of the reference since they were of the view that it was inconsistent with the resolution, while others supported its retention. At the third meeting, the term "informal consultative process" began to be used.

(b) Outcomes of the Consultative Process and their implementation

23. Many delegations highlighted that the Consultative Process was a valuable mechanism for the discussion and examination of developments in ocean affairs and emphasized its role in the work of the General Assembly. Several delegations noted that the Consultative Process had met its goals of facilitating the annual review by the General Assembly of developments in ocean affairs, and in identifying areas where coordination and cooperation at the intergovernmental and inter-agency levels should be enhanced. A view was expressed that the Consultative Process had exceeded initial expectations in this regard. It was also noted that the Consultative

Process had had a re-invigorating effect on the debates of the General Assembly on oceans and the law of the sea, which had become more focused and relevant and demonstrated the value of the work of the Consultative Process.

24. It was emphasized that the Consultative Process was particularly effective in drawing attention to key issues in the field of oceans and the law of the sea and in updating the relevant resolutions of the General Assembly to reflect current trends. Some delegations noted that many of the agreed elements of the Consultative Process had been incorporated in the resolutions of the General Assembly. It was also noted that, in some cases, the inputs of the Consultative Process had saved time and effort during the consultations, while in other cases the Consultative Process had helped to identify the limits of consensus and what could be achieved during the consultations.

25. Several delegations considered that the Consultative Process had fulfilled its intended function by providing a forum for broader and more in-depth discussion on selected topics. They noted that the Consultative Process had considered a large number of issues with socio-economic and environmental dimensions, and had shed light on emerging ocean-related challenges and laid the foundation for international action to address those challenges.

26. On the other hand, some delegations underlined that notwithstanding the original mandate of the Consultative Process in relation to sustainable development, a major concern with the discussions and outcomes of the Consultative Process had been the lack of focus on sustainable development and, in particular, its social dimension. For example, the topic of fisheries had been considered at several meetings of the Consultative Process but that development perspective had been poorly integrated.

27. Several delegations addressed the possibility of the Consultative Process providing a forum to discuss the achievement of the Millennium Development Goals in relation to oceans and seas and to act as a catalyst for cooperation and coordination in that regard. The question of whether the Consultative Process should address issues related to human rights, including ownership of resources in the marine environment, was raised by several delegations. In that context, it was noted that a greater focus on social dimensions and human rights would enhance stakeholders' involvement, especially in coastal communities. This could be achieved with a greater focus on cooperation and coordination, not only at the global level, but also at the national level, by ensuring that all relevant national authorities and other stakeholders participated in the integrated management of oceans and seas.

28. Several delegations noted that the Consultative Process had provided substantive input for a better understanding of the oceans by highlighting the issues, challenges and barriers to the implementation of ocean-related policies, and the ways in which cooperation and coordination at the intergovernmental and inter-agency levels should be enhanced. Some delegations also noted that information from the meetings of the Consultative Process had informed domestic discussions on oceans and marine-related policy issues. Furthermore, knowledge gained from the meetings had increased global, regional and national awareness and implementation of the important ocean issues and actions discussed.

29. Several delegations provided examples of how the outcomes of the nine meetings of the Consultative Process had been incorporated into relevant General Assembly resolutions, or identified subsequent actions taken by States and intergovernmental organizations pursuant to those resolutions. In particular, it was noted that actions had been taken concerning illegal, unreported and unregulated fishing, protection and preservation of the marine environment, conservation of biological diversity, protection of vulnerable marine ecosystems from destructive fishing practices, ecosystem approaches, sustainable use of marine resources, piracy, maritime safety and security, the genuine link, capacity-building, marine science and technology, marine pollution and degradation, land-based activities and integrated ocean management.

30. It was observed that it was difficult to determine the developments that could be traced directly to the outcomes of the Consultative Process. Additional information in the report of the Secretary-General on actions taken by States pursuant to General Assembly resolutions and outcomes of the Consultative Process would have been useful in assessing the utility of the Consultative Process.

31. As regards illegal, unreported and unregulated fishing, which had been addressed in the outcomes of a number of meetings of the Consultative Process, some delegations observed that concerns remained regarding the lack of capacity for monitoring, control and surveillance of activities of fishing vessels in developing countries; possible connections between illegal fishing and transnational organized crime; and flag State non-compliance or non-performance with respect to conservation and management measures. It was also noted that not all flag States allowed vessels flying their flag to operate without effective control.

32. The view was also expressed that the state of the world's fish stocks was critical and the question was posed if a possible option could be to apply the principles of the common heritage of mankind to fish stocks beyond areas of national jurisdiction.

33. The representative of the secretariat of the Food and Agriculture Organization of the United Nations (FAO) expressed the view that the Consultative Process had contributed to its work on combating illegal, unreported and unregulated fishing, in particular, the development of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing in 2001, which in turn had led to the ongoing efforts to negotiate a binding agreement on port State measures. It was noted that consideration of this issue once again by the Consultative Process could renew momentum on the issue and help overcome the lack of technical expertise necessary for implementation in some countries. It was also noted, however, that the issue was a complex one, and that it was important not to reopen negotiated outcomes, such as the definition of illegal, unreported and unregulated fishing in the International Plan of Action.

34. Some delegations stressed the role of the Consultative Process in the development of the "Assessment of Assessments", the start-up phase of the regular process for the global reporting and assessment of the state of the marine environment, including socio-economic aspects, and referred to the establishment of the ad hoc working group of the whole by General Assembly resolution 63/111. Also underlined by some delegations was the adoption of General Assembly resolution 61/105 regarding the impacts of bottom fisheries on vulnerable marine ecosystems, which had been an impetus for the adoption by FAO of the International Guidelines

for the Management of Deep-sea Fisheries in the High Seas. The positive institutional outcomes of the Consultative Process, for example, the establishment of the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, were also highlighted.

35. Conversely, the view was expressed that the implementation of General Assembly resolution 61/105 by some States was not consistent with the sovereign rights of coastal States over their continental shelf. Furthermore, attention was drawn to the implementation of resolution 61/105 in relation to the Area. It was suggested that during the negotiation of the recommendations, there had been insufficient time for consultations regarding the consequences of the possible interpretations of the recommendations, which had led to confusion regarding maritime areas. This should be considered as a lesson learned regarding the effectiveness of the Consultative Process.

36. A view was expressed regarding the importance of finding a balance between the value of the Consultative Process and the General Assembly in addressing issues already discussed in other forums and the possibility of interfering with such discussions. The representative of IMO noted that the Consultative Process and the General Assembly would need to be mindful of ongoing negotiations in other forums.

37. The important role of IMO in developing international shipping standards and promoting their implementation was highlighted. The relationship between the Convention and IMO instruments was also addressed.

38. Several delegations observed that while the Consultative Process had served its original purpose, there was room for improvement in terms of substance, procedure and outcome in order to enable the Consultative Process to produce concrete contributions to the General Assembly. The view was expressed that support for the continuation of the Consultative Process was conditional upon improvements in terms of substance and procedure.

39. An analysis was presented of the extent to which the agreed consensual elements of the first nine meetings of the Consultative Process had been incorporated into the resolutions of the General Assembly, and the relative proportion of incorporated elements that related to the main areas of interest of developing countries, namely capacity-building, transfer of technology and financing. It was regretted that only a small proportion of the incorporated elements related to those particular areas. It was also stated that the measure of success of the Process did not necessarily lie in the production and subsequent incorporation into General Assembly resolutions of agreed elements.

40. Some delegations noted that where there had been a lack of a concrete outcome on a given subject dealt with by the Consultative Process, that did not mean that the Consultative Process had failed. In addition, where concrete outcomes were taken up in General Assembly resolutions, any subsequent lack of implementation also did not mean that the Consultative Process had failed; rather, the responsibility for implementation rested with Member States.

41. Several delegations emphasized that the Consultative Process needed to continue to be a forum to address measures aimed at enhancing cooperation and coordination on capacity-building as well as transfer of technology and questioned

whether developing countries effectively benefited from the consideration of those issues by the Consultative Process. A suggestion was made that the mandate of the Consultative Process should include a mechanism to coordinate capacity-building.

42. Some delegations addressed the desirability of regional and subregional approaches to capacity-building, while noting that commitment at the national level to assessing capacity needs and priorities and using the acquired capacity were at the core of the success of capacity-building programmes. It was also noted that capacity-building programmes had been developed both by developed countries and intergovernmental organizations to meet needs identified in the Consultative Process. In relation to the capacity-building programmes available through the United Nations and its agencies, some delegations proposed an evaluation of the impacts of such programmes. It was suggested that UN-Oceans and its members should be more active and visible in regions where the volume of ocean activities was very high, particularly in developing States. The Deputy Coordinator of UN-Oceans explained that there was no overarching strategy among UN-Oceans members in terms of their capacity-building activities. The evaluation of impacts was undertaken at the level of individual programmes, in the context of result-based frameworks, but that at the level of UN-Oceans no such exercise had been conducted.

43. Several delegations addressed the role of UN-Oceans in general. With regard to the strengthening of coordination and cooperation within the United Nations system, it was noted that UN-Oceans provided a useful forum and there was a good level of cooperation among the organizations that comprised it. Other delegations addressed the issue of UN-Oceans' effectiveness and transparency, particularly with reference to the difficulties in accessing UN-Oceans reports, in view of the mandate of the Consultative Process under resolution 54/33, paragraph 8 (b). Several delegations also raised the issue of whether UN-Oceans would be the appropriate forum for reporting to the Consultative Process on the achievement of the Millennium Development Goals in relation to oceans and seas. In relation to the UN-Oceans reporting mechanism, the Deputy Coordinator of UN-Oceans explained that a report on the activities of UN-Oceans was provided annually to the Consultative Process and acknowledged that UN-Oceans needed to update its website in order to provide further information on its activities.

(c) Format and methods of work of the Consultative Process

44. A view was expressed that a discussion of the format and methods of work of the Consultative Process should include how to select the topic of focus and which aspects of the topic should be discussed, as well as how to address the topic.

45. Several delegations emphasized that the process for considering and selecting the topics for the subsequent meetings should contribute to sustainable development and that a transparent, objective and inclusive process should be devised. Some delegations reiterated that delegations should select topics carefully with sustainable development in mind, and that delegations should prepare for the meetings with an understanding of the sustainable development aspects.

46. A view was expressed that the mandate provided in resolution 54/33 had not always been respected in the selection of topics. The meetings had not always provided an adequate opportunity to exchange views and share information on ocean affairs in the context of sustainable development in view of the limited scope

of the topics chosen, and this needed to be addressed in the selection of topics for future meetings. Some topics, such as climate change, sustainable fisheries, marine genetic resources and marine technology, were more easily seen through the lens of sustainable development than others, such as maritime security. It was noted also that other topics, such as transnational organized crime and issues related to terrorism, were more appropriately considered in other forums.

47. While it was important for the Consultative Process to remain focused on topics that fell within its mandate, this approach should also not discourage it from addressing sustainable development issues in a more comprehensive manner. Some delegations considered that all of the topics considered by the Consultative Process had links to sustainable development.

48. In selecting topics it was important to integrate new challenges and viewpoints in the work of the Consultative Process while, at the same time, it was essential to promote discussion on a topic of concern to developing countries.

49. With regard to cooperation and coordination, it was noted that overlaps among discussions of various forums could not be avoided in respect of certain issues. However, such overlaps could be minimized by giving an opportunity to relevant intergovernmental organizations to provide detailed briefings on developments in their forum. The Consultative Process could then focus on promoting and strengthening cooperation and coordination, on ensuring that Member States develop national plans of action and on integrated approaches to ocean and coastal management. Some delegations cautioned against excluding topics simply because they fell within the mandate of other forums, and noted that the Consultative Process was intended to strengthen collective, coordinated and integrated approaches.

50. It was observed that the existing mandate and working method had allowed for the flexibility needed to address the most important topics relevant to sustainable ocean management in an adequate manner, and the efficiency of the Consultative Process had improved in recent years. The discussion at the Consultative Process had become more focused, in particular, thanks to the choice of a single topic for each meeting.

51. Several delegations suggested that the Consultative Process should focus on certain topics for a number of years and continue to consider them as long as they were important. Most of the topics on the list of issues to be suggested to the General Assembly had not been taken up by the Consultative Process and that there was a need to prioritize certain topics from the list.

52. Delegations discussed ways to improve the selection of topics to be discussed by the Consultative Process. It was generally noted that earlier identification of issues would improve pre-meeting preparations and the discussions during the meeting. Several delegations supported the circulation of background or concept papers on proposed topics well in advance of the discussions, which could provide background information, identify possible sub-topics for panellists and possible questions for discussion. It would be important also to include information on why the proposed topic should be addressed by the Consultative Process. Some delegations suggested that proposed topics could be presented during the meeting and a preliminary discussion could take place on the topics before the General Assembly considered the issue. The meeting could devote a specific session to a

discussion for that purpose and recommended topics could be proposed by the Co-Chairpersons to the General Assembly.

53. In order to facilitate early preparations, some delegations supported the development of a two- or three-year programme for the Consultative Process, which would extend the mandate for a prescribed number of years with the topics to be addressed each year already agreed upon. In this context, some delegations noted the importance of retaining flexibility in the Consultative Process to discuss emerging or new issues. It was suggested that including a segment on new or emerging issues might be useful in that regard. Some delegations noted that in cases where synergies existed between topics it might be possible to consider more than one topic during a meeting of the Consultative Process. The view was expressed that the General Assembly should consider the programme of the Consultative Process on an annual basis. The issue of the timing of the meetings of the Consultative Process was also raised and whether it would be useful to hold the meeting during other calendar dates.

54. Several delegations highlighted that decisions on the topic of focus, and the emphasis given during the meeting to the topic of focus, must be consistent with the mandate of the Consultative Process and the three pillars of sustainable development. Several delegations supported the incorporation of sustainable development issues in the consideration of a proposed topic. It was noted in this context that the Consultative Process should not preclude itself from discussing topics that were dealt with in other forums, and there was a need to take a balanced and inclusive approach to all elements of sustainable development. A key question in this regard was whether the Consultative Process could add value to the discussion by addressing the issue in an integrated and comprehensive fashion. Several delegations highlighted the need for concrete, practical topics that allowed for focused discussion.

55. Several delegates emphasized the need to improve pre-meeting preparations, in particular by increasing the time available for such preparations. Many delegations pointed out that beginning the preparatory process earlier would improve the consideration of the topic by the Consultative Process and a number of specific proposals were made in this regard. Some delegations proposed initiating earlier with the Office of the President of the General Assembly the appointment of co-chairpersons. It was suggested that this could be done at the end of the term of the outgoing President, rather than at the beginning of the term of the incoming President. The co-chairpersons could be appointed for a two-year period. Some other delegations proposed a two-day preparatory meeting where discussions on the topic of focus could take place. It was noted that initiating the pre-meeting preparations earlier would have several benefits, including securing expert panellists. Some delegations noted that a database of experts would be useful.

56. The importance of the expertise of the panellists at the Consultative Process was highlighted by several delegations. The need for a wide representation of panellists from developing countries was emphasized by many delegations. It was noted that, while retaining the format, efforts should be made to ensure a balanced representation from developed and developing States and the practice of consultations with States should continue. It was also recognized that efforts had been made to include experts from developing countries on the list of panellists at previous meetings. It was noted that problems associated with the selection of

panellists were also due to the late appointment of the co-chairpersons, who then had insufficient time to prepare for a meeting. The importance for the panellists to be selected with the sustainable development mandate in mind was highlighted.

57. Several delegations called for enhanced efforts to ensure the participation of panellists from developing countries, and noted constraints in terms of financing and obtaining visas. It was noted that the voluntary trust fund established for the purpose of assisting developing countries, in particular least developed countries, small island developing States and landlocked developing States, required adequate and consistent funding, and that measures to facilitate and secure expertise from developing States was required. Several delegations emphasized the need to increase contributions to the voluntary trust fund to facilitate and secure the attendance of experts from developing countries. It was suggested that a letter from the Co-Chairpersons might be useful in this regard. It was also noted that sponsoring panellists to attend a meeting was an option.

58. Several delegations noted that the Consultative Process had provided a platform for a more integrated and interactive debate by bringing together experts, practitioners, decision makers and representatives of civil society, industry and other stakeholders. Some delegations emphasized the role of the Consultative Process in deepening the understanding of stakeholders involved in issues affecting the oceans and seas.

59. In relation to emerging issues, several delegations discussed whether the Consultative Process should simply identify emerging issues or also try to deal with them. Some delegations noted that the Consultative Process provided participants with the opportunity to develop their prospective positions on an emerging issue in an informal setting that included a full range of stakeholders. It was also stated that the Consultative Process should keep abreast of new and emerging issues, but not enter into negotiations concerning those issues. Yet another view was expressed that the Consultative Process should not address emerging issues under the purview of other forums.

60. One delegation suggested that future meetings of the Consultative Process could devote a segment to a briefing by the Secretariat, or UN-Oceans, on issues under deliberation in other forums as this would facilitate discussions of the Secretary-General's report as well as negotiations on the General Assembly resolution.

61. Many delegations emphasized the importance and value of the informal, open and inclusive nature of the Consultative Process for discussions on ocean affairs within the United Nations system. It was noted that the Consultative Process was a flexible process for the consideration of ocean issues with few limitations on what could be discussed.

62. Several delegations noted that the informal character of the Consultative Process, the broad participation in its meetings and the free flow of discussions were strengths that had led to the success and utility of the Consultative Process. Others were of the view that the Consultative Process provided an opportunity for an exchange of views and the sharing of information on oceans issues. The importance of participation by non-governmental organizations was highlighted.

63. Concerns were raised as to the participation in the Consultative Process of developing countries, including least developed countries and small island

developing States, which was of particular importance, not only so that they could take part in the discussions, but because it was within the mandate of the Consultative Process to bear in mind the needs of the different regions of the world.

64. Several delegations expressed concerns over the negotiation of agreed elements at the meetings of the Consultative Process. It was noted that, although the Consultative Process could propose elements for consideration by the General Assembly, the meetings of the Consultative Process had led to a negotiation exercise that had not been conducive to the effectiveness or utility of the Consultative Process. The effort put into seeking agreement on those elements was at the expense of time and energy that could be devoted to exchanging opinions and enhancing awareness of topics among participants, as well as promoting the three pillars of sustainable development.

65. One panellist suggested three possible explanations for the increasing difficulty in reaching consensus on the elements, namely: (a) increased ambition in the level of consensus sought; (b) dealing with issues where it was more difficult to identify areas of consensus; and (c) different views regarding the purpose of the Consultative Process.

66. Several delegations highlighted that resolution 54/33 did not require the Consultative Process to propose elements for consideration by the General Assembly. The Consultative Process could fulfil its mandate to "facilitate" the work of the Assembly either by preparing agreed elements for incorporation into the Assembly's resolutions or simply by drawing its attention to specific issues.

67. Some delegations expressed the view that the Consultative Process was not a decision-making body and that its outcomes should not be seen as imposing any obligation on Member States during consultations on the resolutions of the General Assembly. They emphasized that the Consultative Process had been established as a forum for the exchange of views and information and its informal and consultative nature did not lend itself to negotiating outcomes that could be perceived as binding. Some delegations noted in this regard the dangers of mixing a consultative process and a negotiating process.

68. It was also stressed by some delegations that the Consultative Process was not an authoritative forum for the progressive development of the law of the sea or the interpretation of the Convention and should not consider issues that were within the competence of the Meeting of States Parties to the Convention. Furthermore, it was noted that efforts to achieve an agreed outcome at meetings of the Consultative Process duplicated the functions of the consultations of the General Assembly on oceans and the law of the sea.

69. Some delegations noted that the reporting relationship of the Consultative Process to the General Assembly was an essential asset of the Consultative Process, but also emphasized that the desire to produce agreed elements had a negative impact on the effectiveness of the process, and had come at a cost of devoting sufficient time and energy to the exchange of opinions and enhancement of awareness on the topic of focus. In this regard, some delegations observed that the Consultative Process should focus more on the exchange of information.

70. It was also noted that there was a need to ensure that the Consultative Process continued to make a substantive contribution to the collective understanding of oceans issues and did not become unfocused or irrelevant. In this context, some

delegations pointed out that consensus should be sought when it could be identified, and noted that the elaboration of consensual elements helped to structure the debates of the Consultative Process. The view was expressed that by negotiating agreed elements, the Consultative Process could facilitate the informal consultations on the draft resolutions of the General Assembly by shortening the time necessary for those discussions. Conversely, it was noted that the consensual elements were often renegotiated during the consultations. It was further underscored that the difficulty did not lie with the negotiation of consensual elements, but the perception that such elements should bind delegations in the context of the informal consultations.

71. The view was also expressed that any outcome of the Consultative Process should enjoy the support of all participants in order to provide the General Assembly with the consensual views of the Consultative Process. It was also noted that the debate should be the principle element of the Consultative Process and should be facilitated by a mechanism developed by the Co-Chairpersons in consultation with Member States. Some delegations indicated that the outcome should be in the form of a concise statement or summary of discussions prepared by the Co-Chairpersons reflecting the factual deliberations of the meeting and indicating areas where consensus was viewed as possible. Yet another opinion was expressed that it would be helpful for the Co-Chairpersons to seek the views of delegations on perceived areas of consensus, in order to avoid misunderstandings.

72. Several delegations noted that the negotiations were the cause of practical concerns that could diminish the universality of any agreement reached. Some delegations emphasized the need to change the practice of considering the agreed elements on the last day of the meeting to ensure that all delegations were able to communicate with their capitals on an equal footing. Delegations with few or only one delegate often found themselves at a decided disadvantage when meetings proceeded into late hours and stressed that that practice could not continue. Another delegation recalled that developing States had expressed their reservation to the practice of holding late sessions to forge consensus on the agreed elements in the absence of interpretation in all official languages, and noted that this presented a problem for their effective participation. However, it was also noted that, while delegations should not be forced to reach consensus to arrive at agreed elements, the Consultative Process should recognize "natural consensus" where it existed.

(d) Issues which could benefit from attention in the future work of the Consultative Process

73. The meeting was presented with a composite streamlined list prepared by the Co-Chairpersons of issues that could benefit from attention in the future work of the General Assembly on oceans and the law of the sea.[4] Some delegations referred to issues where further efforts were needed, in particular, illegal, unreported and unregulated fishing, including as it might relate to international organized crime; piracy and armed robbery; maritime safety and security; oceans and climate change; climate change as it relates to security and survival, particularly for low-lying coastal areas and low-lying island nations; preservation of the marine environment; protection of living resources; safety of navigation and the production of nautical charts; sustainable use of ocean resources; impact of unfair subsidies on the fishing industry of developing States; cooperation and coordination among flag States,

[4] http://www.un.org/depts/los/consultative_process/composite_list_issues_2008.pdf.

coastal States and port States in the implementation of the Convention; and conservation as it relates to marine life and environment. Other issues that were mentioned during the tenth meeting included undersea noise pollution; marine protected areas; ecosystem management mechanisms to address and prevent species decline and extinction; ocean acidification and its effects on food security; and the effect of ocean temperature changes on fish stocks. It was noted that means of implementation, capacity-building and transfer of appropriate technology were cross-cutting issues.

Agenda item 4: Consideration of the outcome of the meeting

74. As indicated at the time of the adoption of the agenda, the Co-Chairpersons presented a summary of discussions of the tenth meeting under agenda item 4. The meeting generally endorsed the Co-Chairpersons' summary of discussions. Some delegations made some suggestions which the Co-Chairpersons agreed to reflect in the final text.

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Social development, including questions relating to the world social situation and to youth, ageing, disabled persons and the family

Cooperatives in social development

Report of the Secretary-General

Summary

The present report responds to General Assembly resolution 62/128, in which the Secretary-General was requested to submit a report on the socio-economic impact of cooperatives and the desirability of proclaiming an International Year of Cooperatives and the progress made in promoting cooperatives. The report underscores the importance of cooperatives to socio-economic development and how agricultural and financial cooperatives contribute to long-term solutions for food security and a more resilient and inclusive financial system, in the light of the food and financial crises worldwide. It suggests that proclaiming an International Year of Cooperatives is an opportune moment to highlight the importance of cooperatives in development.

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Contents

I. Introduction

II. Cooperatives and socio-economic development

A. The impact of cooperatives in development

B. Agricultural cooperatives: food security and rural development

1. Contributions to agricultural production and productivity

2. Improving access to markets

3. Improving access to agricultural financing

C. Financial cooperatives in development

1. Financial cooperatives and the current financial and economic crises

2. Financial cooperatives and poverty reduction

D. Leveraging cooperatives for development

III. Consultation and survey results

A. The proposed International Year of Cooperatives

B. Survey results

IV. Conclusion and recommendations

Annexes

I. List of Member States that responded to the survey

II. List of apex organizations that responded to the survey

I. Introduction

1. The present report is submitted in response to General Assembly resolution 62/128, in which the Secretary-General was requested to promote the contribution of cooperatives to development and to consult with Member States on the desirability and feasibility of proclaiming an International Year of Cooperatives and to report on the progress in the implementation of the resolution.

2. Chapter II highlights the important contribution of cooperatives in general and of agricultural and financial cooperatives in particular to socio-economic development.[1] The first section discusses how cooperatives, as self-help organizations that meet the needs of their members, help to generate employment and incomes in the communities in which they operate. The second and third sections focus on agricultural and financial cooperatives, respectively, in light of the energy, food, financial and economic crises that have developed worldwide since 2008. These sections build the case that cooperatives are important components of long-term solutions for food security and a more resilient and inclusive financial system. Together, they underscore the desirability of an international year to promote cooperatives. The fourth section discusses how Member States and cooperative stakeholders can leverage the contributions of cooperatives for development and economic recovery.

3. Chapter III discusses the result of consultation with Member States and cooperative stakeholders on the desirability and feasibility of proclaiming an International Year of Cooperatives. It also presents the survey results on issues related to challenges and initiatives made in providing a supportive and enabling environment for the development of cooperatives. It complements the findings discussed in previous reports of the Secretary-General on the role of cooperatives in: (a) promoting full and productive employment (A/62/154) and; (b) the eradication of poverty (A/60/138). In both past reports, initiatives taken by national and international stakeholders and the cooperative movement to promote, support and sustain cooperative enterprises were discussed. Those reports also presented Government efforts on the implementation of the United Nations guidelines aimed at creating a supportive environment for the development of cooperatives[2] of 2001 and the ILO Recommendation No. 193 concerning the promotion of cooperatives.

4. Chapter IV presents policy recommendations for Governments and other cooperative stakeholders.

II. Cooperatives and socio-economic development

A. The impact of cooperatives in development

5. Cooperatives, organized as business enterprises for the benefit of their members, offer a model of enterprise that is particularly relevant in difficult economic times and instances of market failures. As a self-help group, a cooperative organization is widely accessible, especially for the impoverished and the

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[1] Reflecting the results of the expert group meeting entitled "Cooperatives in a world in crisis", held at the United Nations in New York from 28 to 30 April 2009.

[2] See General Assembly resolution 56/114 and A/56/73-E/2001/68, annex.

marginalized. Where private enterprise or government is weak, particularly in remote rural areas, cooperatives enable local people to organize and improve their conditions. Cooperatives promote and support entrepreneurial development, creating productive employment, raising incomes and helping to reduce poverty while enhancing social inclusion, social protection and community-building. Thus, while they directly benefit their members, they also offer positive externalities for the rest of society and have a transformational impact on the economy.

Box 1
Cooperatives — definition, values and principles

A cooperative is an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations, through a jointly owned and democratically controlled enterprise.

The seven principles that cooperatives subscribe to are: voluntary and open membership; democratic member control; member economic participation; autonomy and independence; education, training and information; cooperation among cooperatives; and concern for community. The first four of these are core principles without which a cooperative would lose its identity; they guarantee the conditions under which members own, control and benefit from the business. The education principle is a commitment to make membership effective and so is a precondition for democratic control, while cooperation among cooperatives is a business strategy without which cooperatives remain economically vulnerable. The last principle, concern for community, is about corporate responsibility, and it pertains to other concerns that the cooperative movement is promoting, such as the prevention of poverty and protection of the environment.

There are three main types of cooperatives. Consumer cooperatives, which include financial cooperatives, enable members to buy goods or obtain services at close to cost price. Producer cooperatives, which include agricultural cooperatives, enable members to achieve higher profits through reduced input costs and better marketing. Worker or employee-owned cooperatives provide members with opportunities for employment and skills improvement.

Source: International Cooperative Alliance website, www.ica.coop; J. Birchall, paper presented at the expert group meeting on cooperatives, United Nations, New York, 28-30 April 2009.

6. Cooperatives are important economic players (see box 2). Financial cooperatives, including credit unions, serve millions of members while some of the largest retailers in the world are consumer cooperatives. Meanwhile, agricultural cooperatives account for a significant part of agricultural production. In trying to assess the scale of the global cooperative movement and its contribution to the global economy, the International Cooperative Alliance (ICA) compiled the Global 300 which lists the top 300 global mutual and cooperative organizations. The 2008

list shows that the 300 top cooperatives are responsible for an aggregate turnover of $1.1 trillion (see www.ica.coop).

Box 2
Cooperatives: some basic facts

- The cooperative sector worldwide has about 800 million members in over 100 countries through the membership organizations of ICA. Overall, it is estimated that cooperatives account for more than 100 million jobs around the world. In terms of percentage of a country's gross domestic product (GDP) attributable to cooperatives, the proportion is highest in Kenya at 45 per cent, followed by New Zealand with 22 per cent.
- Agricultural cooperatives account for 80 to 99 per cent of milk production in Norway, New Zealand and the United States of America; they account for 71 per cent of fishery production in the Republic of Korea; and 40 per cent of agriculture in Brazil.
- Electric cooperatives are important providers in rural areas. In Bangladesh, rural electric cooperatives provide service for 28 million people. In the United States, 900 rural electric cooperatives serve 37 million people and own almost half of the electric distribution lines in the country.
- 49,000 credit unions serve 177 million members in 96 countries, under the umbrella of the World Council of Credit Unions.
- 4,200 European cooperative banks, under the aegis of the European Association of Cooperative Banks, serve 149 million clients, including small and medium enterprises.

Source: ICA website, www.ica.coop; World Council of Credit Unions and European Association of Cooperative Banks; International Labour Organization, Fact Sheet, *Cooperatives and Rural Employment*, 2007.

7. Cooperatives also provide opportunities for social inclusion. In the informal economy, workers have formed shared service cooperatives and associations to assist in their self-employment.[3] In rural areas, savings and credit cooperatives provide access to banking services which are lacking in many communities. Credit cooperatives in financing the formation of small and micro businesses, promotes inclusive finance that the United Nations envisages reaching the poor in a sustainable way.[4]

8. In many countries, cooperatives and mutual benefit societies are substantial providers of social protection, especially health coverage, and they operate as voluntary community-based schemes. In some countries, they also participate in the management of compulsory health insurance or provide services through their

[3] S. Smith and C. Ross, "Organizing out of poverty: how the SYNDICOOP approach has worked in East Africa", ILO, ICA and the International Confederation of Free Trade Unions, 2006.

[4] See World Bank, *Finance for All* (Washington, D.C., 2007).

networks of health and social facilities. Cooperatives and mutuals cover 69 million persons in Asia, 13 million in Latin America, 25 million in Africa, and 5 million in the Middle East.[5] Governments have partnered with cooperatives to extend social protection. For example, the Yeshasvini Cooperative Farmers Health Scheme (Karnataka, India), which serves 2 million people, is financed by members' annual premium contributions and government subsidy.[6]

9. Cooperatives have also been instrumental in peacebuilding and creating bridges of communication in areas of conflict or ethnic division. In Sri Lanka and Nepal, cooperatives have been the only independent organizations allowed by all parties to operate in conflict zones. In post-conflict areas, cooperatives also play a crucial role in restoring both the economy and civil society.

10. Like other business enterprises, cooperatives have limitations. The success of cooperatives is a function of capable management and governance and the ability to adapt to prevailing business conditions. Cooperatives have also been viewed as State instrumentalities or parastatals, and as being less concerned about the genuine needs of their members. Some also view the cooperative principles and structures as limiting the ability to quickly respond to market changes. Cooperative charters also often include restrictions on their ability to raise capital.

11. A social welfare issue also arises when large producer cooperatives behave as monopolies in the market place. While such behaviour benefits cooperative members, it imposes a social welfare cost to consumers. This argument, however, is less of an issue in consumer cooperatives, where members are the consumers.

12. A challenge with the cooperative structure, based on the conflict of interest between members and management, is its vulnerability to management opportunism. This arises when the cooperative membership base is very large so that individual member interest is diffused relative to management's interests and incentives. Failures of cooperatives have often been attributed to this particular vulnerability. Examples in this regard include cases where members elected into official positions grant large loans for themselves in violation of the rules or take arbitrary decisions on the hiring and firing of staff or take strategic decisions with private interest in mind.[7] To address this issue, due enforcement of regulation through effective supervision, member training and ethics guidelines for managers is essential.

13. Cooperatives have also faced the threat of demutualization, which converts the organization into investor-owned. The competitive pressure to expand, which requires raising large amounts of capital more quickly in the capital markets, as well as management's interests for larger compensation, are among the drivers of demutualization. While the social welfare effects of demutualization are difficult to establish, as when larger profits for investors and larger compensation for managers would necessarily lead to lower prices and/or better products and services for consumers, the recent failures of demutualized societies in the United Kingdom,

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[5] Association Internationale de la Mutualité, statistical information on mutual insurances, http://www.aim-mutual.org/uploads/fmanager/about_mutuality/ en_pop_couverte_par_ mutuelle_monde.pdf (accessed 18 May 2009).

[6] ILO, Subregional Office for South Asia, "Extension of Social Protection in India: Yeshasvini Cooperative Farmers Health Scheme", 2007.

[7] R. Chao-Beroff and others, *A Comparative Analysis of Member-Based Microfinance Institutions in East and West Africa*, Nairobi, MicroSave, 2000.

namely Northern Rock and Bradford and Bingley, have led consumers to transfer their business back to the mutual building societies.

14. The United Nations recognizes the cooperative movement as an important partner in the implementation of the development agenda as shaped by the United Nations global conferences and summits since the 1990s. The 1995 World Summit for Social Development in Copenhagen underscored the importance of cooperatives in a people-centred approach to development. Governments adopted the United Nations guidelines on cooperatives[2] of 2001 which serve to guide cooperative formation, as well as limit the role of Governments to one of providing an enabling environment and level playing field so cooperatives can operate on a sustainable basis alongside other types of business. The ILO Recommendation No. 193 of 2002 emphasizes the need to promote the business potential of cooperatives so they can contribute to sustainable development and decent employment.

B. Agricultural cooperatives: food security and rural development

15. Agricultural cooperatives, which are typically organized as supply and/or marketing cooperatives contribute to the development of rural areas. In 2002, International Federation of Agricultural Producers/International Cooperative Agricultural Organization estimated that there were about 569,000 agricultural cooperatives worldwide. Cooperatives enable farmers to pool limited resources to enhance earnings capacity through lower input and credit costs and better marketing of products. For instance, agricultural cooperatives are important in areas where the private sector, owing to market failure, is weak or unable to meet the needs of farmers for agricultural inputs or credit. They also improve the market reach and bargaining power of farmers in marketing agricultural products. Thus, agricultural cooperatives enable farmers to improve their earning and productive capacities.

1. Contributions to agricultural production and productivity

16. Agricultural cooperatives play an important role in food production and distribution.[8] In India, there are some 150,000 primary agricultural and credit cooperatives serving more than 157 million agricultural/rural producers. In the Republic of Korea, agricultural cooperatives have a membership of over 2 million farmers (representing 90 per cent of all farmers). In Japan, agricultural cooperatives cover 90 per cent of all farmers. In France, they account for 60 per cent of agricultural inputs, 57 per cent of agricultural production and 35 per cent of agricultural processing.[9] In Brazil, for example, cooperatives are responsible for 40 per cent of agricultural GDP, and 6 per cent of the agricultural business exports. However, some very large producer cooperatives, by behaving as monopolists, impose a social welfare cost by restricting production, resulting in higher prices for consumers.

17. Some agricultural cooperatives improve farm productivity by obtaining inputs at low cost, and by adopting sustainable farming techniques and through management and organizational development of members. In Nicaragua, for example, Central de Cooperativas de Servicios Multiples (PRODECOOP), a federation made up of small

[8] ICA, Statistical Information on the coop movement, http://www.ica.coop/coop/statistics.html (accessed 12 May 2009).

[9] World Bank, *World Development Report, 2008*, Washington, D.C., 2008.

coffee-producing cooperatives, implemented a strategy of integrating primary cooperative societies in a given area.[10] This strategy improved the quality of the coffee and trade in the international market. PRODECOOP also maintained an Education and Training Fund capitalized with 20 per cent of the surplus obtained in each production as a means for improving productivity. In Guatemala, the Federación de Cooperativas Agrícolas de Productores de Café de Guatemala increased farm productivity and the quality of coffee through the application of appropriate technology and good agricultural practices and implementation of an internal control system.

18. Agricultural cooperatives also help in food security by giving incentives to small and subsistence farmers to contribute in food production. Through economies of scale in obtaining training, credit for farm inputs, and arranging for irrigation, cooperatives enable these farmers to improve their productivities and raise output. With improved marketing, cooperatives enable these farmers to obtain better prices in the market place, giving them the right incentives to produce for surplus.[11]

19. Agricultural cooperatives also promote the participation of women in economic production, which, in turn helps in food production and rural development. Through cooperatives, women are able to unite in solidarity and provide a network of mutual support to overcome cultural restrictions to pursuing commercial or economic activities. Women-only cooperatives in South Asia, for example, facilitate economic independence and improve the social standing of women through active participation in businesses and exposure to management experience and other training. A survey in Nigeria indicated that compared to non-cooperative members, women engaged in cooperative activities were better off, both in terms of productivity and economic well-being.[12] Nonetheless, the overall level of participation of women in agricultural cooperatives remains low. In agricultural cooperatives in many Asian countries, women account for only 2 to 10.5 per cent of total membership.[13] The low participation rate in cooperatives is attributed to a lack of resources and information and to cultural constraints.

2. Improving access to markets

20. Agricultural cooperatives help in marketing agricultural products and in improving farmers' access to markets. It is estimated that 50 per cent of global agricultural output is marketed through cooperatives.[14] Cooperatives provide farmers with the mechanisms to avoid destructive competition among each other and to increase their collective bargaining power vis-à-vis retailers. Typically, a marketing cooperative operates through an apex organization that coordinates with other cooperatives in the network to take a unified negotiating position in dealing

[10] A. Costa Pinto, paper presented at the expert group meeting on cooperatives, United Nations, New York, 28-30 April 2009.

[11] G. Veerakumaran, "Role of Cooperatives in Food Security — A case of Ethiopia", http://www.eeaecon.org/5th%20Inter%20Papers/Dr.G.Veerakumaran%20-%20EEAMUCOOP1.htm (accessed 15 May 2009).

[12] P. S. Amaza, P. V. Kwaghe and A. A. Amos, "An analysis of women's participation in agricultural cooperatives: a case study of Borno state of Nigeria", http://www.cababstractsplus.org/abstracts/Abstract.aspx?AcNo=20026791745 (accessed 12 May 2009).

[13] D. Prakash, "Rural Women, Food security and Agricultural cooperatives", Rural Development and Management Centre, "The Saryu" (New Delhi, India, February 2003).

[14] A. Bibby and L. Shaw, editors, *Making a Difference: Cooperative Solutions to Global Poverty* (Manchester, Cooperative College, 2005).

with buyers. Through this process, small farmers are able to increase farm revenues, lower marketing and information-gathering costs, as well as enter into high-value supply chains that they would not be able to do on their own. Marketing cooperatives therefore enable smallholder farmers to deal with imperfect markets, which are particularly common in remote rural areas, and to minimize the attendant high transaction costs. A survey in Ethiopia found that cooperative members were able to sell their produce at higher prices than were non-members.[15]

21. In Africa, agricultural cooperatives promote an exchange economy by helping develop markets in remote rural areas.[16] By providing a ready market for farmers' crops and reducing transaction costs, cooperatives promote the participation and integration of small farmers to the broader economy. Nonetheless, one factor slowing the participation of small farmers in marketing cooperatives is the distrust arising from the history of cooperatives as parastatals, or State instrumentalities.

22. The marketing of certain agricultural products (e.g., coffee) has seen increasing integration with the international supply chain. While this has improved marketing for cooperatives, it has also raised new challenges regarding the bargaining position of smallholder farmers and their cooperatives relative to large, powerful retailers. Large global retailers often have greater bargaining power and have better information and are in a stronger position to extract unfavourable terms of trade or concessions from cooperatives.[17]

23. Certain agricultural cooperatives that produce commodities such as coffee, cocoa, tea and cotton have improved their access to local markets by working in partnership with the Fair Trade movement. Under the Fair Trade mechanism producers are guaranteed a price that covers the cost of production plus a fair profit margin. In return, producers are expected to meet the Fair Trade Standards — social, economic and environmental — such as avoiding the use of child labour, rules on pesticide use, farming techniques and recycling. Thousands of smallholder farmers belonging to coffee cooperatives in Ethiopia, Rwanda, Timor-Leste and in Central America benefit from this arrangement.

24. Agricultural marketing cooperatives reduce the role of middlemen in food distribution. Under certain size, these marketing cooperatives help to keep profit margins low throughout the value chain, thereby reducing the pressure to maintain high food prices. Nevertheless, large marketing cooperatives have also been known to impose monopolistic pricing that results in higher prices than would be under competitive conditions.

3. Improving access to agricultural financing

25. Access to agricultural credit is one of the challenges to agricultural production. Historically, agricultural financing is provided by cooperative banks rather than agricultural cooperatives. These cooperatives are referred to as Raiffeisen-type cooperatives and have a strong presence in rural areas in Europe. "The Raiffeisen

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[15] G. Veerakumaran, "Role of cooperatives in food security — a case of Ethiopian coffee farmers cooperatives", *African Study Monographs*, Suppl. No. 35 (March 2007).

[16] S. Chambo, paper presented at the expert group meeting on cooperatives, United Nations, New York, 28-30 April 2009.

[17] M. Hanisch, paper presented at the expert group meeting on cooperatives, United Nations, New York, 28-30 April 2009.

groups in Austria, Switzerland and Luxembourg, credit cooperatives in Italy, the cajas rurales in Spain, and the group Credito Agricola in Portugal are all disproportionately present in the countryside. The cajas rurales, for example, account only for about 5 per cent of the Spanish banking market on various measures, but they control about half the retail market in some rural provinces. It is also worth noting that Credit Agricole has a 90 per cent market share in France's agricultural banking market.[18]

26. More recently, however, agricultural cooperatives are becoming more involved in agricultural financing, directly or indirectly. In some countries such as Ghana, Egypt and Kenya, agricultural cooperatives are diversifying their activities into savings and credit provision.[19]

27. In other countries, agricultural cooperatives enter into credit arrangements with cooperative banks. In Mozambique, for example, the Maraga sugar cane growers' cooperative has a credit arrangement with Rabobank, the largest agricultural cooperative bank in the world. Using credit provided by Rabobank, the apex organization purchases farm inputs which it distributes to its primary societies or cooperatives before the harvest and the next planting season. After the harvest and the processing of the sugar cane, Rabobank gets repaid directly by the sugar factory (the sugar cane buyer). The remaining net proceeds are paid out to the cooperatives and support their production. This model integrates credit, acquisition of inputs and marketing with the agricultural produce as collateral. Agricultural cooperatives in Rwanda, the United Republic of Tanzania and Zambia have similar arrangements with Rabobank.

C. Financial cooperatives in development

28. Financial cooperatives enable members to meet their needs for financial services, such as savings and credit, at low-cost and with easy access through the pooling of limited capital. The members' mandatory purchase of ownership shares in the cooperative and their deposit/savings accounts serve as the funding base to enable the cooperative to extend credit to members.

29. Financial cooperatives are often known as credit unions, savings and credit cooperatives or cooperative banks. Membership is typically based on a common bond that helps to establish trust between net savers and borrowers. Financial cooperatives operate with a different set of values and objectives than investor-owned banks and are based on a model driven not only by profit motives but also by social objectives that focus on service and responsiveness to members' needs. Financial cooperatives generally operate at the retail level and are smaller than large investor-controlled banks and thus have a limited need to raise capital in wholesale markets. Their credit underwriting generally requires that a member's deposit account is well established before credit is extended, instilling thrift among members. Because they have a lower cost structure compared to other banks, they are able to pay competitive deposit rates and charge less for their credit products.

[18] W. Fonteyne, "Cooperative banks in Europe — policy issues", International Monetary Fund Working Paper, WP/07/159, July 2007.

[19] P. Develtere, I. Pollet and F. Wanyama, *Cooperating out of poverty: The renaissance of the African cooperative movement*, editors (International Labour Office and World Bank Institute, 2008).

30. Financial cooperatives become part of a network of financial cooperatives to exploit economies of scale and obtain common services such as external funding, internal control functions and Government liaison.[20] Networking also allows cooperatives to be more flexible and responsive to customers' needs as it extends its geographical reach and expands product offerings. Networking in financial cooperatives ranges from highly integrated networks, where each primary cooperative can offer the services and resources of the entire network as in the case of the Canadian Caisses Desjardins[21] to the more loosely integrated networks, where the apex body plays more of an advocacy role. Networks can play a role in providing training and technical assistance to affiliated cooperatives, acting as a central deposit and inter-lending facility, and providing information technology support.

31. Globally, financial cooperatives of all types serve an estimated 857 million people, or 13 per cent of the world population.[22] Leading global financial cooperatives include: in France, Crédit Cooperatif, which is highly involved in supporting social economy initiatives and institutions while Banques Populaires Group is a leader in the financing of small and medium enterprises; Rabobank is a leading partner of the agriculture industry in the Netherlands and abroad; OP-Pohjola Group of Finland, and the Desjardins Group of Canada, are leaders in agriculture, housing and small and medium enterprises markets of their respective countries.[23]

32. In developing countries, access to financial services in many small towns or villages is often offered only by financial cooperatives. In West Africa, for example, Réseau des caisses populaires du Burkina Faso, Niesigyso, Kafo Jigeney in Mali, and Pamecas, Crédit Mutuel du Sénégal, and health cooperative networks managed by national experts offer services in almost every part of these countries. In Mexico the Caja Popular Mexicana cooperative maintains a ubiquitous presence throughout the country.[23]

33. Financial cooperatives are the largest providers of microfinance services to the poor.[24] It is estimated that globally, financial cooperatives reach 78 million clients living below a poverty line of $2 per day.[24] In South Asia, for example, 54.5 per cent of borrowers living below $2 per day were served by cooperatives, compared to 19 per cent served by other microfinance providers.[24] Financial cooperatives thus play a central role in the achievement of an inclusive financial sector that encompasses the poor.

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[20] John H. Magill, "Credit unions: a formal-sector alternative for financing microenterprise development", in Maria Otero and Elisabeth Rhyne, editors, *The New World of Microenterprise Finance: Building Healthy Financial Institutions for the Poor* (West Hartford, CT: Kumarian Press, 1994).

[21] A. Gaboury, M. Quirion, "Why we can no longer afford to ignore financial cooperatives in the efforts to increase access to financial services", Developpement International Desjardins (2006).

[22] P. Crear, paper presented at the expert group meeting on cooperatives, United Nations, New York, 28-30 April 2009.

[23] Paradis, paper presented at the expert group meeting on cooperatives, United Nations, New York, 28-30 April 2009.

[24] R. P. Christen. "New paradigms in microfinance", the Boulder Institute of Microfinance 2008 Microfinance Training Core Lecture, held at the International Labour Organization International Training Centre, Turin, 21 July 2008-1 August.

1. Financial cooperatives and the current financial and economic crises

34. The current financial crisis has led to a greater appreciation of the role of alternative financial institutions and the vulnerabilities in relying on a single form of economic/financial enterprise. During the crisis, the cooperative and credit union sector experienced an influx of deposit funds from member owners seeking a safer place to put their savings. In addition, this sector has been able to continue to lend prudently when other investor-owned banks, with weakened capital, have cut back on lending. Financial cooperatives displayed resilience and actually exhibited growth in savings and in loan volumes. In the Netherlands, for example, a cooperative bank saw 30 to 40 per cent growth in savings, loans to small and medium enterprises and mortgage lending in 2008. Its local member banks posted a 20 per cent increase in savings deposits, and a 16 per cent increase in business loans in 2008.[24] In the United States, credit unions extended 7 per cent, or $35 billion, more loans while lending by conventional banks contracted by $31 billion in 2008.[24] In Brazil, Canada and Ireland financial cooperatives were able to continue or increase previous lending levels as well. This outcome indicates the importance of institutional diversity to enhance the resilience of the financial system and the role of a strong alternative business model in economic enterprises such as the member-owned cooperative business model.

35. Financial cooperatives are among those that have weathered the recent financial crisis relatively well. The primary and local financial cooperatives proved to be the most stable part of the cooperative network. The fact that no credit union worldwide has so far required Government recapitalization to maintain its safety and soundness attests to their ability to withstand financial turbulence. In the Netherlands, the largest banks received Government capital support; the exception was a cooperative bank.

36. Losses have been largely limited to the apex level particularly in developed countries that invested in complex structured products and suffered significant mark downs.[25] The much reported failures in the United Kingdom of Northern Rock and Bradford and Bingley, former building societies that demutualized in 1997 and 2000, respectively, provide further evidence on the relative advantage of those that remained mutual societies or cooperatives.

2. Financial cooperatives and poverty reduction

37. Financial cooperatives contribute to poverty reduction in various ways. Financial cooperatives, by providing savings products, help to reduce members' vulnerabilities to shocks such as medical emergencies, or consumption smoothing. They encourage thrift for future investments, including education and small business enterprises. Financial cooperatives also provide their members with access to credit to finance micro-, small and medium enterprises that generate additional employment and incomes, and provide agricultural credit that help small farmers increase production and improve incomes. Some financial cooperatives, such as the Sistema de Crédito Cooperativo (SICREDI) in Brazil, also offer health insurance products, reducing members' vulnerability to catastrophic health costs.[26]

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[25] Y. Vies, paper presented at the expert group meeting on cooperatives, United Nations, New York, 28-30 April 2009.

[26] R. Kloeppinger-Todd, A. Nair, "Reaching rural areas with financial services: lessons from financial cooperatives in Brazil, Burkina Faso, Kenya, and Sri Lanka", http://vle.worldbank.org/bnpp.

38. The primary product offering of financial cooperatives is low-cost savings facilities for the poor and small depositors. Empirical research of the last decade has demonstrated that demand for savings services exists, even among the poorest.[27] If formal means of savings are unavailable, poor people tend to use livestock, jewellery or other informal arrangements that typically have a low or negative interest rate. For people living in poverty, savings is critical to counterbalance the cyclicality of income. For example, coffee farmers in Rwanda join financial cooperatives to save money for the period before the next harvest and to reserve money for low yield years.[28] For the seven member countries of the West African monetary union, for example, cooperatives accumulated 96 per cent of mobilized savings and 64 per cent of disbursed loans of the microfinance sector, reaching 2 per cent of the population, or 1,440,000 persons.[9]

39. Financial cooperatives often offer multiple savings products to better cater to the needs of members. SafeSave, a financial cooperative based in Dhaka (Bangladesh), offers a programme tailored to the needs of urban informal workers, whose savings are collected on a daily basis. The cooperative's staff of 60 visits members daily to collect deposits, making it convenient for members to save small amounts of money.[27] SafeSave has achieved an average savings balance of $22 (as of 2003) per member, in a community with an annual per capita income that is significantly less than $400.[27]

40. Financial cooperatives provide access to credit for members who might not typically have access to the larger savings and commercial banks. This is significant in markets where financial providers are absent owing to poor revenue prospects, high risks, or high transaction costs. Because of their low cost structure and low profit targets, financial cooperatives are able to offer credit facilities at attractive rates, thereby providing alternatives to predatory lending and reducing the vulnerability of the poor to exploitation. Loan products offered by financial cooperatives include salary advances, agricultural input loans, working capital loans and equipment purchase. And in Burkina Faso, for example, the Réseau de caisses populaires du Burkina also grants loans for weddings and funerals.

41. Financial cooperatives are also important credit providers to small and medium enterprises, an important employment-generating sector in local economies. The Komak cooperative in Azerbaijan, for example, offers loan products to small and medium enterprises with an average loan size of $1,089. Similarly in Uruguay, the Cooperativa Nacional de Ahorro y Crédito offers a continuum of financial services to enterprises as they grow from marginal informal enterprises to sizable formalized companies.[29]

42. Financial cooperatives provide an important service as local economies increasingly rely on foreign remittances. In many developing countries, financial cooperatives provide transfer services which allow migrant workers to remit money to their home country at low cost. Since the World Council of Credit Unions initiated its remittance network in 2001, over $2 billion has been transferred. A 2005 survey of 502 credit unions members in Guatemala revealed that without World Council of Credit Unions remittances, 62 per cent of receiving households would

[27] B. de Aghion and J. Murdoch, *The Economics of Microfinance* (Cambridge, MIT Press, 2005).

[28] Reported in expert group meeting on cooperatives.

[29] Data is from Mixmarket, www.mixmarket.com (accessed 20 May 2009).

have per capita cash income of less than $1 per day.[22] This offers a concrete example of how cooperatives can facilitate poverty reduction.

D. Leveraging cooperatives for development

43. The preceding sections underscored the direct and indirect impact of cooperatives on socio-economic development. Through their business operations and programmes, cooperatives of various types contribute to food production and food security, provide access to financial services and help to create a resilient financial system, while generating jobs and raising incomes. In certain sectors and countries, cooperatives are among the largest economic participants in production, distribution and service provision. They also enhance skills and education in local communities, empowering women and marginalized segments of society. Their unique characteristics, based on their values and principles, make them institutionally important in poverty reduction and in improving living standards.

44. Part of the challenge in the pursuit of socio-economic development therefore lies in how to harness cooperatives towards such ends. While cooperatives do have social objectives and a strong sense of community, they are not State instrumentalities. They are, after all, self-help private enterprises organized for the benefit of their members. However, like other private businesses, cooperatives also respond to Government policies and will thrive well in supportive environments but struggle in others.

45. The primary means therefore of leveraging cooperatives for socio-economic development is to promote their formation and growth in a sustainable manner, consistent with cooperative values and principles and respectful of their autonomy. This requires a sound policy and legislative framework and a level playing field vis-à-vis other enterprises. Governments have already agreed to recognize and promote the cooperative sector, through agreements such as the United Nations guidelines on cooperatives and the ILO recommendation No. 193. The challenge remains one of effective implementation. There is also concern that the assistance given to investor-owned banks during the financial crisis will not lead to a long-term distortion of the financial market, and to the disadvantage of cooperatives.

46. Another element that will help to promote cooperative formation and growth is to raise public awareness of what they can do for their members. Communities that are more aware of successes of cooperatives in increasing the incomes, or providing quality low-cost products and services to members, are more likely to start cooperatives. In this effort, supportive training and technical skills extension are essential; they ensure that cooperatives starting out avoid common mistakes, learn from the experience of other cooperatives and have the skills to successfully lead and operate their cooperatives. The addition of cooperatives courses at all levels of the educational system has also been suggested as an important means of raising awareness about cooperatives. Study tours of successful cooperatives have also served as training opportunities.

47. A key aspect of the success of a cooperative is its ability to retain the trust of its members and to manage reputational risk issues. A vigilant membership base, bound by the democratic one-member-one-vote principle, is essential to addressing weak or unethical management, capture by local politicians, or other conflicts of

interests. The sound governance of cooperatives depends upon a well-informed and active membership base.

48. An issue related to raising public awareness is that of improving the information database on cooperatives. The current lack of robust and harmonized statistics, including research on cooperatives, makes it difficult to quantify and communicate their impact. This also makes it difficult for Governments to assess how policy formulations may affect cooperatives. Both Governments and international organizations can work together in developing robust methodology for collecting and gathering statistics on cooperatives. Funding such an international effort is essential.

49. The sound regulation of cooperatives facilitates the formation and growth of cooperatives, as they help to instil confidence in the operations of cooperatives. The formulation of such regulation is most helpful in promoting cooperatives when the distinct nature of cooperatives is recognized. This also applies to accounting standards, taxation regimes and to rules limiting access to capital. In Rwanda, for example, regulation recognized that the member-owned nature of cooperatives was a mitigating factor along with other controls, when the capital requirement for financial cooperatives was reduced to a fraction of that required for microfinance institutions. This helped financial cooperative formation in remote areas with limited transportation and communication infrastructure or where no other bank was willing to operate. A survey indicated that the level of financial integration in Rwanda is very high compared to its level of development.[30] Regulatory guidelines should also ensure that cooperatives maintain their autonomy and safeguard against politicization of cooperatives. A related issue is credible regulatory enforcement. It requires competent, trained and ethical supervisors.

50. Strengthening credit unions would require enabling them to have access to important financial services and networks typically available to commercial banks. This includes access to: (a) payment, clearing and settlement systems, including card payment networks, and (b) the central bank's liquidity window. In addition, there is need for financial cooperatives to have access to deposit insurance systems on par with other institutions. Finally, when they are capable, credit unions need the flexibility to issue alternative forms of capital. Even as credit unions seek the above-mentioned equal regulatory treatment, it is noted that the strongest credit union systems in the world operate under legislative frameworks that recognize the unique nature of financial cooperatives. This would suggest that such credit union-specific legislation would be appropriate in most instances, and can ensure an appropriate set of financial management disciplines, create ways to build and distribute capital, set governance oversight and establish a prudential supervisory framework for a large number of small institutions.[22]

51. Finally, achieving the appropriate framework for regulation of financial cooperatives remains a challenge for Governments. There is a need to balance the constraints of scarce regulatory resources against the need to provide depositor protection over a relatively large number of small institutions. Accordingly, different models have emerged as countries attempt to deal with this issue. In some countries, the regulator only supervises the largest financial cooperatives. This model emerged in Latin America in the 1990s and is now used in the Plurinational State of Bolivia,

[30] www.finscope.co.za (acessed 15 May 2009).

Chile, Colombia, Ecuador and El Salvador. Other countries such as Kenya have formally delegated supervisory power to the national association of credit unions. This, however, leads to a potential conflict of interest since the supervisor also has the objective of promoting the growth of the financial institution being supervised. Another category involves a single prudential regulator with supervision over all credit unions. While this model ensures uniform standards and eliminates regulatory arbitrage, it may not be appropriate and cost-effective in supervising small-sized institutions operating in remote areas. In some instances, the single prudential supervisor is a restructured ministry of cooperatives.[31] Given that the possible approaches have their different strengths and weaknesses, it is incumbent upon Governments to determine the appropriate balance of cost and effectiveness best suited for their respective conditions, while ensuring that the regulatory body is independent, well-trained and equipped to perform its responsibilities.

52. To scale up the contribution of agricultural cooperatives in food security involves increasing and diversifying food production, raising productivity, improving distribution and enhancing retention of food surplus locally. Facilitating access to financial services including credit extension for the purchase of seeds, fertilizers and equipment, and providing crop insurance are essential to promote increased production by cooperatives. The provision of year-round irrigation will increase farm productivity. Investments in transportation, communications and storage infrastructure will improve marketing and distribution of farm products and reduce spoilage. Finally, research and development in farming techniques and agricultural extension will enable cooperative members to adopt new farming technologies that will boost agricultural output. Improved access to markets will encourage subsistence farmers to produce surplus, while promoting the participation of women in cooperatives will lead to higher farm productivity.

III. Consultation and survey results

A. The proposed International Year of Cooperatives

53. The United Nations, along with other international agencies, recognizes the importance of cooperatives and their contributions to poverty reduction, employment generation and social inclusion. The World Bank recognizes the role of cooperatives in revitalizing the agricultural sector and the rural economy. A 2007 IMF study showed that "cooperative banks have become important parts of many financial systems".[32] In chapter II above, the roles of agricultural and financial cooperatives in socio-economic development were highlighted in the context of the recent food and financial crises.

54. An International Year of Cooperatives is timely as we face the worst financial and economic crisis since the Great Depression, threatening the socio-economic development of millions of people. Promoting cooperatives, as self-help organizations, can contribute to tackling the issues of poverty, unemployment and

[31] A. Poprawa, paper presented at the expert group meeting on cooperatives, United Nations, New York, 28-30 April 2009.

[32] M. Cihak and W. Fontayne, "Cooperative banking: flying under the radar", *IMF Survey Magazine* (September 2007), http://www.imf.org/external/pubs/ft/survey/so/2007/RES0925B.htm (accessed 10 December 2008).

loss of incomes, food insecurity and the lack of access of the poor to credit and financial services in the light of the current global economic crisis.

55. The objectives of the proposed International Year of Cooperatives include the following:

(a) Promoting awareness about cooperatives and how they benefit their members and contribute to socio-economic development and the achievement of Millennium Development Goals;

(b) Encouraging people to organize themselves into cooperatives as self-help measures to address their economic needs and as a means to empowerment;

(c) Encouraging Governments to establish policies, laws and regulation conducive to cooperative formation and growth;

(d) Promoting awareness of the global network of cooperatives and their efforts in community building, democracy and peace.

56. As part of the consultation with Member States and stakeholders specified by the General Assembly in resolution 62/128, a survey of Member States and ICA members was conducted to determine the desirability and feasibility of proclaiming an International Year of Cooperatives. A majority of responses support the proposal to declare an International Year of Cooperatives as a way of promoting cooperatives and raising awareness on their contribution to socio-economic development. Out of 40 Member States responding to the survey, 34 were in favour of the proposal while 2 were against and 4 abstained. Of the 28 apex cooperative organizations that responded to the survey, 27 were in support of the proposed International Year.

57. In this respect, an International Year of Cooperatives would highlight the significance of cooperatives in many societies, and would strengthen the international commitment to support cooperatives. The Year could serve as an impetus for the adoption of policies, programmes, projects as well as regulations that promote cooperatives, raise awareness about cooperatives and their contribution to socio-economic development. The Year would also provide a forum for dialogue on issues such as cooperative legislation and regulatory framework and cooperative autonomy.

58. Given the broad support for the proposed International Year of Cooperatives, the organization of such an international year seems feasible. If the International Year of Cooperatives is proclaimed, several issues will have to be finalized, including institutional and funding arrangements. A small secretariat for the Year will have to be set up within the United Nations system to coordinate, promote and support the activities of the United Nations system for the observance of the Year. Also, coordinated efforts among stakeholders through partner engagement and mobilization are obviously necessary for a successful observance of a Year.

59. The United Nations guidelines for declaring International Years (Economic and Social Council resolution 1980/67) encourages countries to establish national committees or other mechanisms for the observance of the Year at the national level. Thus, national level partnerships and participation of all stakeholders are essential for the observance of the Year. Finally, mobilizing funding through voluntary contributions is crucial for a successful observance of a Year.

B. Survey results

60. The survey conducted also looked into the initiatives taken to promote the formation and growth of cooperatives and the challenges faced. Thirty-nine of 40 responding Member States reported that cooperatives play an important role in their socio-economic development and noted that cooperatives serve an important function in providing accessible financial services, promoting rural enterprises and providing livelihoods for the poor.

61. In resolution 62/128, the General Assembly also drew the attention of Member States to the need to review the legal and administrative provisions governing the activities of cooperatives in order to enhance the growth and sustainability of cooperatives. Over all, the main thrust for legislative frameworks on cooperatives has been provided by ILO Recommendation No. 193 of 2002. The recommendation stresses the need for self-management and autonomy of cooperatives as well as providing an enabling environment and level playing field so cooperatives can operate on a sustainable basis vis-à-vis other enterprises. At the national level, the recommendation has enabled Government to develop policies aligned with the cooperative principles.

62. From the survey results, Governments recognize the challenge of cooperative autonomy and of avoiding undue political interference in cooperatives, especially at the apex level; this was echoed by cooperative associations. A number of countries reported on their efforts to modernize the legal framework for cooperatives, including updating and amending regulatory practices, and ensuring autonomy of member-governance (Burundi, Slovenia). For economies in transition (Viet Nam) this is a challenge for cooperatives established under central planning and are now re-evaluated against this international standard of genuine cooperatives.

63. Governments also support the growth of cooperatives through tax relief (Chile, Mauritius). Nonetheless, some countries are under pressure to have their tax-exempt status removed (Portugal). The policy question, therefore, is how to identify appropriate and fair taxation that considers the specificities of different cooperatives. In Bulgaria, the Government encourages cooperatives to provide services in areas where markets have been absent or inefficient. Greece stresses the role of supportive measures to facilitate the ability of cooperatives to promote labour market integration of persons with disabilities. In the European Union framework, programmes for promoting the social economy contribute to the promotion of cooperatives, according to Greece.

64. Responses from Member States also indicated that the three principal constraints faced by cooperatives which Governments seek to address include the lack of quality training, problems of cooperative regulations and legislation, and the lack of access to finance. Apex cooperative organizations said the lack of training and of public awareness of cooperatives was their predominant concern.

65. Governments have introduced measures to provide a level playing field for cooperatives vis-à-vis other types of business by providing training and business development services. Government strategies to build the capacity of cooperatives include education and skills development, free audit services, technical guidance and consultancy services which are often integrated with financial assistance. Some provide start-up assistance through grants and investment guarantees (Latvia), while others provide training for cooperatives through specialized institutions.

66. Member States also recognized that partnerships and networking between cooperatives can help to improve sales and back-office operations and management information-systems. It was also suggested that cooperatives participate in government procurement processes and competitively offer their products and services, as in distributing government-subsidized farm inputs to farmers.

IV. Conclusion and recommendations

67. **Cooperatives make important contributions to socio-economic development. The capacity of cooperatives for creating viable and sustainable enterprises secures productive employment and the generation of income, thereby contributing to poverty reduction. In addition, cooperatives, driven by their values and principles and focus on their local communities, strengthen rural economies and provide significant positive externalities for the rest of society.**

68. **Leveraging the contribution of cooperatives to development requires the promotion, formation and growth of cooperatives in a manner that is sustainable and respectful of their autonomy. Declaring an International Year of Cooperatives could play a catalytic role in this regard.**

69. **The General Assembly may wish to consider the following recommendations and invite Governments and international organizations, in partnership with cooperatives and cooperative organizations to:**

(a) **Approve and support the proposed International Year of Cooperatives as a global initiative to promote cooperatives and raise awareness of their socio-economic contributions;**

(b) **Encourage the formation and growth of cooperatives of all types by ensuring an enabling environment with a sound legislative and regulatory framework that recognizes the unique characteristics of cooperatives, their strengths and weaknesses, while respecting their autonomy;**

(c) **Promote the growth of financial cooperatives to meet the goal of inclusive finance by providing access to financial services for all;**

(d) **Promote the growth of agricultural cooperatives through access to finance, adoption of sustainable production techniques, investments in rural infrastructure and irrigation, strengthened marketing mechanisms, and support for the participation of women in economic activities;**

(e) **Promote education and training for the sound operation of cooperatives in schools among potential and existing members and leaders of cooperatives and support research and development and the provision of technical assistance;**

(f) **Improve research and the information database on cooperatives globally, harmonizing statistical methodologies to enable sound policy formulation.**

Annex I

List of Member States that responded to the survey

Argentina
Austria
Bolivia (Plurinational State of)
Bulgaria
Burkina Faso
Burundi
Cameroon
Chile
Croatia
Cyprus
Denmark
El Salvador
Finland
Fiji
Ghana
Greece
Iran (Islamic Republic of)
Kazakhstan
Kenya
Latvia
Malaysia
Mauritius
Mauritania
Montenegro
Morocco
Mexico
Pakistan
Portugal
Qatar
Singapore
Slovenia
Sri Lanka
Swaziland
Sweden
Togo
Trinidad and Tobago
Uruguay
United Arab Emirates
Viet Nam
Zambia

Annex II

List of apex organizations that responded to the survey

Association of Asian Confederation of Credit Unions (Thailand)

Central Cooperative Union (Bulgaria)

Central Union of Agricultural Cooperatives (Japan)

Central Union of Consumer Societies of the Russian Federation

Central Union of Turkish Agricultural Credit Cooperatives

ConfCooperative (Italy)

Confederación de Cooperativas de Colombia

Cooperative Central Bank Ltd./Pan-Cyprian Coop. Confederation Ltd.

Co-operatives (United Kingdom)

Groupement National de le Coopération (France)

Instituto Movilizador de Fondos Cooperativos Ltd. (Argentina)

Japan Workers Cooperative Union

Japanese Consumer Cooperative Union

Karachi Cooperative Housing Societies Union Ltd.

Korean Federation of Community Credit Cooperatives

LegaCoop (Italy)

Lithuanian Union of Cooperatives Societies

National Cooperative Business Association (United States of America)

National Cooperative Council (Krajowa Rada Spółdzielcza-Poland)

National Cooperative Federation of Nepal

National Cooperative Organization of Malaysia

National Federation of Workers and Consumers Insurance Cooperatives (Japan)

National Union of Worker Producers' Cooperatives (Bulgaria)

Panhellenic Confederation of Unions of Agricultural Cooperatives (Greece)

Singapore National Cooperative Federation

Unimed do Estado de São Paulo-Federação Estadual das Cooperatives Médicas (Brazil)

Union of Czech and Moravian Housing Cooperatives

Viet Nam Cooperative Alliance

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Eradication of poverty and other development issues

Legal empowerment of the poor and eradication of poverty

Report of the Secretary-General

Summary

The present report has been prepared pursuant to General Assembly resolution 63/142 on the legal empowerment of the poor and eradication of poverty. The report summarizes the emerging approach to legal empowerment of the poor; highlights the operational scope and focus of legal empowerment of the poor; summarizes national and regional experiences and the role of various organizations of the United Nations system in fostering empowerment of the poor; and addresses challenges and lessons learned.

* A/64/50.

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Contents

		Page
	Introduction	3
I.	The international human rights framework and legal empowerment of the poor	4
II.	Legal empowerment of the poor: operational framework	7
III.	Legal empowerment of the poor and the United Nations: national and regional experiences	10
IV.	Challenges, lessons learned and the way forward	16

Introduction

1. In its resolution 63/142, the General Assembly took note of the final report of the Commission on Legal Empowerment of the Poor, entitled *Making the Law Work for Everyone*,[1] and stressed the importance of sharing best practices in legal empowerment of the poor. It also requested the Secretary-General to submit to it a report on the legal empowerment of the poor, taking into account national experiences in this regard.

2. In many developing countries, laws, institutions and policies governing economic and social interactions do not afford equal opportunity and protection to a large segment of the population, who are mostly poor, minorities, women and other disadvantaged groups. Instead of fostering inclusive and equitable growth, some laws and institutions tend to impose barriers and biases against the poor. Even where there are laws that protect and uphold the rights of the poor, they are often too ambiguous, cumbersome and costly for them to access. In many developing countries, informal norms, practices and institutions govern the everyday life of the poor. The poor may have to worry about the state of the slum in which they live or about the bribes they must pay for inadequate public services, which they are entitled to receive free of charge. In a system that works against them, the poor survive by mixing customary practice with ingenuity, creating informal structures that can at times be more effective than their formal counterparts. Yet, in many places, customary laws and practices also discriminate against women and juveniles, who face multiple and intersecting grounds of exclusion.

3. Legal empowerment of the poor can be understood as the process of systemic change through which the poor are protected and enabled to use the law to advance their rights and their interests as citizens and economic actors. It is a means to an end but also an end in itself. Strengthening the rule of law is an important contributor to the legal empowerment of the poor. While it is not a substitute for other important development interventions, legal empowerment of the poor can be a necessary condition to create an enabling environment for providing sustainable livelihoods and eradicating poverty.

4. Legal empowerment is rooted in a human rights-based approach to development, which recognizes that poverty results from disempowerment, exclusion and discrimination. Thus, legal empowerment fosters development through empowering and strengthening the voices of individuals and communities, starting at the grass roots and from within. It also recognizes that every individual must have access to justice, including due process and remedies and that action must be taken to eliminate discrimination. Legal empowerment promotes a participatory approach to development and recognizes the importance of engaging civil society and community-based organizations to ensure that the poor and the marginalized have identity and voice. Such an approach can strengthen democratic governance and accountability, which, in turn, can play a critical role in the achievement of the internationally agreed development goals, including the Millennium Development Goals.

5. Legal empowerment of the poor seeks to establish the rule of law and ensure equal and equitable access to justice and tackle the root causes of exclusion,

[1] http://www.undp.org/legalempowerment/report/Making_the_Law_Work_for_Everyone.pdf.

vulnerability and poverty. Security of livelihoods, of shelter, of tenure and of contracts can enable and empower the poor to defend themselves against possible violation of their rights. In that respect, legal empowerment is both preventive and curative. It goes beyond the provision of legal remedies and leads to better economic opportunities for the poor.

6. Focusing on livelihood security, legal empowerment can effectively deliver both the "freedom from want" and the "freedom from fear". When communities and societies respect the law and traditions, it can ensure protection for all and can prevent and protect against abuse of authority, bias and discrimination, which are often the root causes of social unrest, violence and conflict. A fair and effective legal system is also a prerequisite for a well-functioning, participatory democracy where the poor are empowered and legal measures are available for the peaceful resolution of conflict.

I. The international human rights framework and legal empowerment of the poor

7. Poverty is among the gravest human rights challenges in the world. It embodies a range of interrelated and mutually reinforcing deprivations, and is associated with stigma, discrimination, insecurity and social exclusion. Poverty is not simply the lack of material goods and opportunities such as employment, ownership of productive assets and savings. It is also the lack of intangible assets and social goods, such as legal identity, good health, physical integrity, freedom from fear and violence, organizational capacity, the ability to exert political influence, and the ability to claim rights and live in respect and dignity. The poor are not a homogeneous group; vulnerabilities and challenges vary among persons living in poverty. A human rights approach to development is fundamentally concerned with empowerment, believing that poverty results from disempowerment and multiple exclusions.

8. A characteristic of virtually all communities living in poverty is that they do not have access, on an equal footing, to government institutions and services that protect and promote human rights — where such institutions exist in the first place. Often, they are also unable to adequately voice their needs, to seek redress against injustice, participate in public life, and influence policies that ultimately will shape their lives. People excluded in this manner not only lack the protection and rights afforded by the law, but any resources they may have can neither be properly protected nor leveraged owing to such cumulative effects of exclusion and discrimination. Obstacles to obtaining justice undoubtedly reinforce poverty and exclusion. Poverty can thus be seen as both the cause and consequence of exclusion from the rule of law.

9. Legal empowerment can give poor people and communities the legal tools to proactively protect themselves from the effects of climate change, such as droughts, deforestation, desertification, sea-level rise and flooding. At the same time, legal empowerment can give poor people access to new climate financing opportunities such as the carbon markets. Secure land rights, for example, will be critical to ensuring that poor farming communities can attract carbon financing to rehabilitate forests, grasslands and agricultural land. Land rights for the poor and equitable access to land would produce a triple dividend: improving livelihood security,

stimulating economic development, and reducing concentrations of greenhouse gases. Legal empowerment of the poor could therefore contribute to sustainable poverty reduction and climate resilient development.

10. From a human rights perspective, legal empowerment is critical both as a development objective and as an outcome, whereby all individuals — as rights-holders — will possess capacities to claim and exercise their rights. Given that enjoyment of human rights involves the interaction of claims on entitlements and corresponding duties, a human rights perspective in development also aims to develop the capacity of State and non-State actors as duty-bearers to meet the obligations of the social contract.

11. This fundamental linkage between human rights and development, inherent in the Charter of the United Nations and reiterated by Member States in the 2000 Millennium Declaration, the 2005 World Summit Outcome and outcomes of other international conferences is at the core of the approach to the legal empowerment of the poor that is emerging within the international community.

12. The final report of the Commission on Legal Empowerment of the Poor[1] fully recognizes that the concept of legal empowerment is anchored in the basic principles of human rights articulated in the 1948 Universal Declaration of Human Rights and the subsequent universal and regional international human rights conventions, beginning with article 1 of the Universal Declaration, which states that "All human beings are born free and equal in dignity and rights." These international standards of human rights require that everyone's basic rights, assets and livelihoods be effectively upheld and protected by the law. The Declaration makes it clear that all human rights are indivisible and interrelated, and that equal importance should be attached to each and every right.

Human rights mechanisms to support empowerment of the poor

13. The international human rights framework offers a comprehensive basis for legal empowerment of the poor. The relevant international norms and standards that support legal empowerment of the poor are constantly being strengthened and elaborated. Both in the contexts of human rights treaty bodies and special procedures of the Human Rights Council as well as of the Social Forum of the Human Rights Council, important work on issues relevant to legal empowerment of the poor and eradication of poverty, including on the right of equal access to justice, has been carried out.

14. In his 2008 report to the Human Rights Council, the Special Rapporteur on the independence of judges and lawyers stressed the importance of free legal aid programmes, which is generally the only legal assistance accessible to large portions of the population and emphasized the need to support the work of non-governmental organizations and bar associations, and their initiatives to bring justice to traditionally neglected regions and social groups. The Special Rapporteur noted that there are "serious obstacles barring access to justice for the very poor", and recognized that "nothing mirrors the indivisibility and interdependence of human

rights better than extreme poverty, since anyone living in extreme poverty is adversely affected in every aspect of life".[2]

Legal empowerment of the poor, with special regard for women and children

15. Despite the global recognition of, and support for, the principle of equality, women and the girl child continue to face challenges to the full enjoyment of their human rights. Discrimination and inequalities in women's access to land, property, the labour market and inheritance persist, often resulting from statutory and customary property systems that disenfranchise women.

16. The link between women's empowerment and poverty eradication encompasses in particular the following aspects: (a) women's de jure equality and the elimination of discrimination against women, which covers the persistence of overtly discriminatory legal provisions in both statutory law and customary legal systems; (b) women's knowledge of their rights and capacity to claim them, including legal literacy; and (c) means of redress and access to justice and remedies, including international means of redress. These aspects are elaborated in the Convention on the Elimination of All Forms of Discrimination against Women and the Committee on the Elimination of Discrimination against Women.

17. The Convention (article 2) requires States parties to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, and requires States to ensure through law and other appropriate means, the practical realization of the principle of the equality of men and women (article 2 (a)). Pertinent to legal empowerment of the poor are the articles dealing with employment (article 11), economic and social life, including family benefits, bank loans, mortgages and other forms of financial credit (article 13), the situation of rural women including access to agricultural credit and loans, and equal treatment in land and agrarian reform as well as in land resettlement schemes (article 14); equality with men before the law, and identical legal capacity, including the conclusion of contracts and administration of property (article 15), and equality in marriage and family relations (article 16).

18. The Committee on the Elimination of Discrimination against Women recognizes the right to own, manage, enjoy and dispose of property as central to a woman's right to enjoy financial independence, which in many countries, is critical to women's ability to earn a living. In the view of the Committee on the Elimination of Discrimination against Women, any laws that grant men a greater share of property or inheritance severely limit a woman's ability to provide for herself or her dependants.[3]

19. The Beijing Platform for Action (para. 51) and the Outcome Document of the twenty-third special session of the General Assembly (para. 8), in 2000, also noted that women's poverty was directly related to the lack of access to economic resources, including credit, land ownership and inheritance. The Platform focuses on women's equal rights, the need for revision of laws and administrative practices to

[2] A/HRC/8/4, para. 26. The Special Rapporteur considered this issue in his former capacity as Special Rapporteur for the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1996/13).

[3] Committee on the Elimination of Discrimination against Women General Recommendation No. 21 on equality in marriage and family relations, paras. 26 and 35.

ensure women's equal rights and access to economic resources. To that end, the Platform (para. 58 (p) and 61) calls for free or low-cost legal services, including legal literacy, especially designed to reach women living in poverty.

20. The Division for the Advancement of Women in the United Nations Secretariat regularly highlights the role of women's legal empowerment in efforts to address poverty, including elimination of discriminatory laws, enhanced legal literacy of women and women's access to remedies, in its analytical work and its support for the normative and policy-making work of Member States. The Division for the Advancement of Women highlighted linkages between the legal empowerment of women and poverty eradication in a report on women in development. The report notes (A/62/187, para. 5) that women's vulnerability to poverty results from a number of factors, including: inequalities in access to productive resources; and unequal distribution of resources within the family, and stressed the need for women to enjoy equality in the labour market and access to and control over economic resources. The 2009 World Survey on the role of women in development will address women's control over economic resources and access to financial resources, including microfinance, within the broad framework of the economic empowerment of women.

21. The Division for the Advancement of Women also highlighted the impact that gender inequalities in customary law and legislation can have, for example, on the unequal division of responsibilities between women and men. Laws that do not grant women and men the same rights in marriage, family relations, divorce and access to property contribute to women's economic dependence on men and reduce their access to resources. The Division for the Advancement of Women also found that owing to their concentration in informal work, many women do not enjoy basic rights and are not eligible to access social security benefits — entitlements that help to define decent work.[4] The quality of women's employment influences the extent of their entitlements. Access to adequate pensions may be jeopardized because of lower wages and shorter work histories owing to interruptions related to caregiving.

22. As part of its continuing efforts to fulfil its special mandate for supporting the Convention on the Rights of the Child, the United Nations Children's Fund (UNICEF) has launched a Legislative Reform Initiative aimed at influencing the establishment of legal frameworks that promote gender equality and result in real and positive changes for children at the national level. Legal reform in relation to children's rights is essential as it can help establish entitlements that can contribute to reducing child poverty and economic discrimination against women, improving living conditions of children, protecting children from commercial exploitation, and enhancing the provision of effective social security and safety nets for the poor.

II. Legal empowerment of the poor: operational framework

23. Globally agreed human rights instruments and the ongoing work and recommendations of the human rights treaty bodies provide the normative basis of the legal empowerment of the poor as discussed in section I, as well as the foundations for elaborating a practical and operational framework for addressing vulnerabilities and legal empowerment of the poor. The Commission on Legal

[4] E/CN.6/2009/2, para. 36.

Empowerment of the Poor contributed to the elaboration of the framework by identifying three empowerment domains and related rights essential to the livelihoods of the poor: property rights, labour rights and rights to self-employment and business.[5] These rights are underpinned by access to justice as a component of the rule of law, the fundamental and enabling framework without which none of the rights can be realized. Four key conditions for legal empowerment of the poor are identity, information, voice and organization.

Access to justice

24. The legal system can play an important role in supporting poverty eradication by giving poor people access to the appropriate mix of rights and remedies. However, laws that discriminate against, or ignore, the rights and livelihoods of the poor can pose serious obstacles to the eradication of poverty. In such contexts, law and justice sector reforms can provide the foundation for protection and incentives to enable poor people to realize the full value of their human and physical capital. Yet, reforming the law on paper is often not enough to change the reality on the ground. The poor also need a legal and judicial system that is accessible to them and that can make their legal entitlements practical, enforceable and meaningful. Recognizing the fundamental importance of access to justice, the operational framework of legal empowerment of the poor also focuses on the underlying incentive structures as well as the capacity of the judiciary and state institutions that are needed to make the law work for the poor. Measures to improve access to justice should focus on developing low-cost justice delivery models, taking into account the cost of legal services and legal remedies, capacity and willingness of the poor to pay for such services, congestion in the court system, the incentives of the judiciary and law enforcement agencies and the efficacy of informal and alternative dispute resolution mechanisms.

Property, labour and entrepreneurship

25. Article 17 of the Universal Declaration recognizes property rights as a fundamental human right.[6] Nonetheless, the absence or insecurity of property rights remains a central cause of poverty, especially in the poorest countries.[7] The focus on property rights, as envisaged in the Commission on Legal Empowerment of the Poor report, on the one hand seeks to expand the legal protection of assets of the poor and on the other, promote the access to property by the poor.[8]

26. For many poor people, access to land defines their existence. The lack of access to land and other natural resources is often a major source of disenfranchisement, particularly for women and other vulnerable groups. Women's ownership of property, for example, is just a minimal fraction of men's. In many cases this situation is perpetuated by laws and customary arrangements that clearly favour men. Many indigenous populations around the world also face the threat of

[5] Article 23 1 of the Universal Declaration of Human Rights provides for the right to work but also the right to the free choice of employment, which broadly includes right to self-employment, including the right to run businesses.

[6] It should be noted that no subsequent treaty elaborated on this right.

[7] Liz Alden Wily, "Land Rights Reform and Governance in Africa: How to make it work in the 21st Century", Discussion Paper (UNDP, October 2006),

[8] Commission on Legal Empowerment of the Poor, *Making the Law Work for Everyone*, vol. II, Working Group Reports, p. 73.

disenfranchisement because of loosely defined property rights which are often not adequately recognized by law.

27. Property rights help establish reliable ties of rights and obligations among members of a community, as well as a system of mutual recognition of rights and responsibilities beyond the local community. It is often the basis for establishing a legal identity to gain a voice, exercise voting rights, access basic services and entitlements and become a member of a community. Property rights are, often, a prerequisite for obtaining access to utilities, such as electricity, which can be a powerful means to climb out of poverty.

28. A fully functional and equitable property rights system can also ensure that ownership of assets is transferable. This, however, requires effective regulation and oversight by the State authorities to ensure that asymmetries in property ownerships do not work against the poor or create opportunities for exploitation and marginalization. Effective recognition of property rights can also facilitate access to credit, for example in the form of a loan to start a small business or a mortgage. The poor must, however, be afforded due protection of law to own, use and dispose of their property, without a presumption that their ability to use their property as collateral, and access credit, will automatically lift them out of poverty.

29. Their ability to work is the greatest asset of the poor. In this area, legal empowerment of the poor seeks to make international and national systems of labour standards and labour rights more inclusive and promote more productive and decent work for poverty eradication. The freedom of association and protection of the right to form and join trade unions, elimination of forced or compulsory labour in all its forms, just and favourable conditions of work, elimination of discrimination in access to employment, training and working conditions, equal pay for men and women for work of equal value and abolition of child labour form an important part of the internationally agreed labour standards and figure prominently in the evolving discourse on legal empowerment of the poor. Despite a long-standing commitment by all countries to these labour rights and standards, a large majority of workers remain excluded from the fundamentals of decent work and the protections that labour rights strive to provide. Decent work is also about security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men.

30. Most of the world's poor work in the informal economy, unable to eke out a decent living from jobs that are poorly paid. The International Labour Organization (ILO) estimates[9] that over 600 million working poor, who earn less than $1.25 a day, toil away in the informal economy, unable to lift themselves and their families out of poverty. It is important to recognize that it is not the informality but the nature of their activity that is often the cause of their poverty. In simplest terms, the link between low productivity and poverty is that if people were able to earn more from their work, poverty would decline.[10] While most international labour standards are applicable to workers in the informal economy, their enforcement by countries that lack capacity is often weak or non-existent.

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[9] ILO, *Global Employment Trends, January 2009*, table A7.

[10] Commission on Legal Empowerment of the Poor report, volume II, Working Group reports, p. 157.

31. Micro-entrepreneurs, small business owners, vendors and others who are self-employed — operating at varying degrees in the informal economy and outside formal legal regulation and protection, lacking adequate access to the advantages of formal business and financial support systems — contribute significantly to the economy in many countries. But informality is often linked to legal and political vulnerability, which can limit opportunities for economic and social development at both the individual and community levels. Rights and protection required to support self-employment, start businesses and become a micro-entrepreneur — as derived from existing rights, including political, civil, economic and social ones — are essential for the livelihoods of the poor. An effective legal system, local government institutions and services that are more open, accessible, accountable and have legitimacy, are key for a more inclusive society and empowerment of the poor.

32. There should, however, be no presumption that the poor only want to become entrepreneurs and that they are not risk averse. Micro-entrepreneurship and self-employment is often not a question of choice, but a function of a lack of other options.

III. Legal empowerment of the poor and the United Nations: national and regional experiences

33. Poverty eradication is the cardinal development objective of the United Nations. Experience at the country level suggests that a legal empowerment approach to development blends well with what the United Nations system is already doing at the operational level. Firmly premised on the normative framework and value system of the United Nations, legal empowerment of the poor is effectively complementing the poverty eradication work undertaken by the United Nations system.

34. To gain a broader understanding of what is meant by legal empowerment, as well as obtain some examples of experiences with legal empowerment at the national and regional levels, the United Nations Secretariat requested input from various funds, programmes and agencies of the United Nations system. Responses were received from the Division for the Advancement of Women, Department of Economic and Social Affairs, ILO, the Food and Agriculture Organization of the United Nations (FAO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Children's Fund (UNICEF), the United Nations Development Programme (UNDP), the United Nations Environment Programme (UNEP), the United Nations Human Settlements Programme (UN-Habitat), the Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Office on Drugs and Crime (UNODC). These inputs touched upon a wide range of issues, among them decent work, indigenous people's rights, land tenure, access to education, children's rights, access to justice, land titling, environmental management, housing rights and shelter, and good governance.

35. ILO promotes the legal empowerment of the poor through a variety of standards-related activities like legislative gaps analyses, awareness-raising and advocacy, advice on legislative reform and capacity-building addressed to Governments, employers' and workers' organizations as well as judges and parliamentarians. These activities are aimed at facilitating the ratification and

effective implementation of Conventions which have an impact on legal empowerment.

36. ILO plays an active role in the realization of the Millennium Development Goals, in particular Millennium Development Goal 1, on the eradication of poverty. The main tools it employs are International Labour Standards, i.e., Conventions and Recommendations adopted by the International Labour Conference. In fighting poverty and exclusion, ILO essentially relies on its Decent Work Agenda to promote employment, develop and enhance social protection (social security and labour protection) and facilitate social dialogue and uphold and realize fundamental principles and rights at work. In the area of social dialogue, ILO promotes an integrated approach to encourage good governance and advance social peace and stability based on the empowerment of national stakeholders. The very essence of social dialogue is indeed to promote consensus building and democratic involvement among the main stakeholders in the world of work.

37. In 2008, ILO published a brochure entitled *Including indigenous peoples in poverty reduction strategies: A Practice Guide based on experiences from Cambodia, Cameroon and Nepal*, indicating good practices and operational recommendations for a rights-based approach to addressing multifaceted poverty as perceived by indigenous peoples themselves. Through the Labour Dispute Resolution Project, ILO is assisting the Government of Cambodia, employers and trade unions to prevent and resolve disputes through developing new dispute resolution institutions; legal, policy and regulatory development; and capacity-building on conciliation and collective bargaining. The project is targeting the Arbitration Council and the Ministry of Labour — to improve the services they deliver to prevent and resolve disputes through conciliation and arbitration. It is also targeting workers and employers to change their labour relations, culture and practices at the workplace. A major accomplishment of the project has been the establishment of the Arbitration Council, Cambodia's only national, statutory, alternative dispute resolution body.

38. The work of FAO in land tenure, forestry and fisheries management has long focused on creating an enabling, participatory and community-based approach to development. More recently, FAO participated very actively in the deliberations of the Commission on Legal Empowerment of the Poor, in particular with regard to property rights. The FAO workplan for 2009 includes activities at the national level, the preparation of global guidelines and studies related to fisheries, forest tenure, land tenure, wildlife laws, farmers' associations and social transfers, which is closely linked to legal empowerment of the poor that seeks to promote the right to food.

39. In the field of land tenure, FAO has supported a participatory land delimitation approach as an innovative method for securing rights acquired through customary and other forms of occupation. It provides a quick and effective form of officially recording already acquired rights. The approach has been successfully used in Mozambique, where FAO has also supported the drafting and implementation of the progressive Land Law and contributed to capacity development of judges, district officials and Non-Governmental Organizations in promoting the access of the poor to land.

40. UNESCO is committed to a series of initiatives at the national and regional levels to support empowerment of the poor and the eradication of poverty. UNESCO

fosters community-based media to catalyse and amplify the community "voice" and promote public participation in people-centred development. Community media are relevant for the legal empowerment of the poor because they serve minority and marginalized groups.

41. UNESCO recognizes that children from poor households are most affected in exercising their right to education. Providing education to the poor, to the excluded and to the disadvantaged is a priority concern, as poverty is the greatest obstacle to realizing the right to education. Gender equality and empowerment of women is one of two global priorities of UNESCO for the period 2008-2013. It is seeking to empower the poor — especially women — through its efforts to promote the implementation of the Convention on the Elimination of All Forms of Discrimination against Women at the country level.

42. To support legislative reforms at the national level, UNICEF is providing assistance in the implementation of the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women, seeking full harmonization of national legislation with these conventions and other international instruments related to children. It has been, for example, actively involved in the reform of the constitutions of Timor-Leste, Iraq, Brazil and South Africa. In many countries, UNICEF has supported the drafting of children's codes and facilitated extensive reviews of all national laws that relate to children. In Nigeria, UNICEF partnered with the House Committee on Women and Children's Affairs in the drafting and passage of the Child Rights Act, a domestic version of the Convention on the Rights of the Child in Nigeria. In South Africa, it was involved with the adoption of two bills promoting children's rights. In its efforts to empower the poor and the marginalized, UNICEF has also been active in promoting birth registration and the elimination of child labour through legislative reform in many countries.

43. The concept of legal empowerment of the poor is embedded in the current UNDP Strategic Plan 2008-2011, which states that "effective reduction of poverty, inclusiveness and equity depend on the ability of institutions to deliver public goods and social services, effectively regulate markets in the public interest and provide legal access to economic assets and opportunities in ways that are fair and equitable".[11] The UNDP initiative on legal empowerment of the poor seeks to (a) generate strong political support, commitment, knowledge and understanding for the legal empowerment agenda with resolutions, decisions and dissemination of knowledge on the subject; (b) develop capacity of government entities at the national, provincial and local levels, to undertake necessary legal and institutional reforms and to deliver legal empowerment of the poor; and (c) engage grass-roots-level organizations to achieve a bottom-up approach in legal empowerment, support social movement and promote accountability and sustainability for pro-poor reforms.

44. A recent survey of projects implemented by UNDP country offices identified 55 ongoing projects on legal empowerment-related issues, addressing — in one way or another — access to justice, property rights, labour rights and business rights. In Indonesia, UNDP is working on a joint initiative with the National Development Planning Agency on a project on Legal Empowerment and Assistance for the Disadvantaged aimed at strengthening access to justice for poor and marginalized people through support to legal services, legal and human rights awareness and legal

[11] DP/2007/43, para. 73.

capacity development. The assessment of access to justice for the most disadvantaged populations conducted by the National Development Planning Agency and UNDP in the post-conflict provinces of West Kalimantan, Maluku, North Maluku, Central Sulawesi and Southeast Sulawesi, as well as in Nanggroe Aceh Darussalam found that the economic dimension of justice was a common concern for many of the thousands interviewed.

45. UNDP and the National Development Planning Agency, as well as other United Nations agencies, the World Bank and civil society organizations, collaborated closely to draft the country's National Strategy on Access to Justice. The national strategy recognizes access to justice for the poor as a critical means of eradicating poverty, focuses on society's most disadvantaged and marginalized groups and recommends that government policies across all sectors must seek explicitly to reach the most vulnerable persons and communities.

46. The Program for the Transition to the Rule of Law and an Inclusive Market Economy in Albania — implemented by UNDP, Institute for Liberty and Democracy, and the Government of Albania — aims to gather deeper knowledge on obstacles and costs of doing business in Albania. A diagnosis report has found that major obstacles are within the nation's existing legal framework, which contains regulatory bottlenecks, unpredictable norms, and inadequate laws that compel the poor to operate in the informal economy. This initiative will lead to policy recommendations aimed at designing institutional reform to allow greater legal protection for the poor and facilitate access to housing and other forms of assets.

47. In Liberia, Uganda and Mozambique, UNDP is partnering with the International Development Law Organization to support community land titling initiatives. The overall goal of the initiative will be to determine best practices for community land titling. Community land titling processes will also be closely investigated for signs of intra-community discrimination to determine how best to protect the land claims of the most vulnerable populations.

48. Ensuring environmental sustainability has been the fundamental objective of the United Nations Environment Programme (UNEP). Development and implementation of environmental law as a means to achieve environmental sustainability was reinforced by Agenda 21 at the 1992 United Nations Conference on Environment and Development and the Rio Declaration, as well as the Plan of Implementation adopted by the World Summit on Sustainable Development in 2002. The objective of Millennium Development Goal 7 — Ensuring environmental sustainability — requires adherence to the rule of law and a strong legal and institutional framework. UNEP therefore promotes the rule of law as it relates to the environment by supporting in particular developing countries to strengthen their legal and institutional frameworks for environmental management.

49. The UNEP environmental law programme assists developing countries and economies in transition by providing advisory services and technical assistance to develop and strengthen their environmental laws and institutions. UNEP supports the work of legal aid groups, including legal non-governmental organizations, by disseminating environmental law-related information and inviting them to environmental law programmes. Legal aid groups take up public interest litigation on behalf of the poor and marginalized in the society at no cost and assist those who cannot access courts because of fees, inability to pay for legal representation and capacity to articulate issues.

50. UNEP undertakes activities with other partners to promote the application of Rio Principle 10, of the Rio Declaration on Environment and Development which encourages Governments to reach out to the public including the poor by enhancing access to information on the environment, public participation in decision-making and access to justice in environmental matters. Enhancing the application of Rio Principle 10 includes advising Governments to provide by law opportunities for the public, including the poor, to have access to information on the environment including on harmful substances that can affect the poor and their environment. "Public participation" includes the availability of opportunities for members of the public to provide input in relation to the making of decisions, which have or are likely to have an impact on the environment, including the enactment of laws, policies and guidelines.

51. The UNEP/UNDP Poverty-Environment Facility/Poverty-Environment Initiative is currently developing a tool to identify key components in laws that can promote environmental sustainability. In empowering the poor, UNEP supports public participation in environmental decision-making and in environmental management in areas such as in community conservation programmes through participatory approaches. Community-based conservation programmes with regard to land, water, forestry, waste management, etc., when legislated at the national level, help to empower the poor and provide an opportunity to get involved and benefit from conservation programmes.

52. The UN-Habitat approach to legal empowerment of the poor is informed by the reality that the vast majority of urban poor — as many as 900 million — live in informal settlements in a condition of insecurity of tenure. Left unaddressed, this figure may reach 1.4 billion by 2020 and 2 billion by 2030. Improving the lives of at least 100 million slum-dwellers by the year 2020, Millennium Development Goal 7, Target 11, is one of the key mandates of UN-Habitat.

53. For UN-Habitat, legal empowerment begins with the recognition that many laws work against the poor. In securing housing rights and shelter for the poor, it seeks to: (a) understand the local institutions (rules and organizations) that have created socially legitimate mechanisms for regulating social behaviour; (b) build on the institutions that exist in a way that can provide them a measure of legal recognition; and (c) strengthen the institutions, where necessary, to deal with social, economic and environmental risks; for example, promoting improved hazard-resistant building practices, improved settlement layouts, securing women's land and property rights.

54. UN-Habitat is providing technical assistance to the African Union/Economic Commission for Africa/African Development Bank land policy initiative, including the land policy framework and guidelines for land reform. Many African countries are developing national land policies to, inter alia, address outdated or colonial laws to ensure more equitable access to land. It has facilitated discussions related to the implications of rapid urbanization for the continent. Through the Global Land Tool Network, funding will be provided for the development of land indicators and training packages to strengthen land administration capacity. UN-Habitat has initiated an African regional programme of capacity-building to improve transparency and address corruption in land administration.

55. In Dar-es-Salaam, United Republic of Tanzania, the UN-Habitat Slum Upgrading Facility has negotiated an agreement with local officials whereby

minimum plot sizes have been effectively reduced to make them more affordable for poor families. The community is able to purchase a piece of land under a group lease and can build individual homes more appropriate and affordable sizes. By pooling their resources into a group lease, the families can collectively meet the de jure standards set by government for buildings in that area.

56. In Surabaya, Indonesia, the Slum Upgrading Facility has negotiated with local authorities to permit slum-dwellers to meet local building codes by promoting multi-storey residences. By creating the foundations for a second-floor and having the authorities recognize an incremental building approach that will see the second half of the building completed within a set period of time, the urban poor are able to live in their neighbourhoods, but within much improved housing conditions.

57. Besides the support to the work and activities of treaty bodies and special procedures and of the Human Rights Council, the Office of the United Nations High Commissioner for Human Rights (OHCHR) carries out programmes and activities — both at Headquarters and in the field — related to the legal empowerment of the poor, especially in areas related to access to justice and strengthening of the rule of law, a human rights approach to poverty reduction strategies and good governance and democratization.

58. In Guatemala, OHCHR organized in April 2008 an international seminar on strategic litigation and legal clinics in human rights for indigenous human rights lawyers and legal workers to sensitize civil society organizations and academia on the basics of strategic litigation and to explore the viability of strategic litigation as a method for social change in favour of human rights. Based on the outcomes of this seminar, in 2009 OHCHR Guatemala together with UNICEF and UNDP developed the project. Maya programme: for the full implementation of the indigenous peoples' rights in Guatemala.

59. In Angola,[12] OHCHR supported improved access to justice, particularly for women and people living in poor and remote areas. Legal aid centres were established in three priority provinces, and the use of alternative mechanisms for conflict resolution, such as mediation and arbitration, was integrated into the Angolan judicial system. In Burundi, the OHCHR 2008-2009 programme focused, inter alia, on strengthening of the rule of law through improved access to justice for all, particularly for the most vulnerable, and the professionalization of the judiciary and the penitentiary. In these ways, OHCHR together with the Human Rights and Justice Division of the United Nations Integrated Office in Burundi is helping to restore confidence in the judiciary.

60. The Human Rights Section of the United Nations Stabilization Mission in Haiti (MINUSTAH) has put in place a project of free legal aid in Haiti. To this end, the Human Rights Section has developed partnerships with the Bar of Mirebalais and Jacmel; the Justice Section of MINUSTAH has a similar project (called Kay Justice) in Port-au-Prince. Currently, the project of free legal assistance is operational in three Haitian cities, and it seeks to improve access to justice of those who do not have the necessary resources to pay for a lawyer.

61. The United Nations Office on Drugs and Crime (UNODC) as the custodian of United Nations standards and norms on crime prevention and criminal justice has a

[12] OHCHR Angola Office was closed in 2008.

growing programme in the area of access to justice and legal empowerment of the poor. This includes the development of tools focusing in particular on children, women and other vulnerable groups in the criminal justice system, such as the criminal justice assessment toolkit and several handbooks on penal reform which contain a strong focus on access to legal aid for all offenders and prisoners. Programmes exist in many parts of the world, including in Africa, the Middle East and Latin America.

62. In Africa, UNODC is supporting the implementation of the Revised African Union Plan of Action on Drug Control and Crime Prevention (2007-2012), which includes among its priority areas the reinforcement of the effectiveness of criminal justice systems, with a specific focus on victim assistance and witness protection.

63. Access to justice and legal aid represents an important component of a number of projects elaborated by UNODC jointly with other United Nations agencies in the framework of the Millennium Development Goals Fund. Projects with a legal aid component that are set to receive funding are being implemented in Guinea-Bissau, Mexico (in the State of Chiapas), the Plurinational State of Bolivia, Brazil and Afghanistan.

64. The UNODC Toolkit to Combat Trafficking in Persons provides an overview of ways and means of ensuring adequate legal representation for victims of trafficking to facilitate their participation in criminal proceedings against traffickers. The toolkit also advises that State-paid legal counsel should be made available to victims of trafficking to represent them during the various legal proceedings, which may range from prosecution of the trafficker to claims for compensation or restitution by the victims.

IV. Challenges, lessons learned and the way forward

65. Legal empowerment must be firmly anchored in the realities of poverty and exclusion. It requires changes in the relations between the State and the poor and their relative powers. By its very nature, legal empowerment of the poor has the potential to threaten some vested interests. There will be winners and losers, particularly as mutual payoff from legal empowerment is often not evident. In some cases, powerful economic actors may organize effectively to block reforms that could empower the poor and the disadvantaged. In others, elites may try to influence reforms to yield advantage for themselves. Persuading those who feel threatened by legal empowerment of its benefits is a challenge that must be overcome, for example, by building alliances with stakeholders and seeking ways to overcome cultural impediments to legal empowerment of the poor.

66. Success of legal empowerment initiatives and reforms on the ground will depend on many factors, including political leadership and commitment from the Government as well as other stakeholders. At the very start, legal empowerment processes must be informed by a thorough understanding of the context in which they will be undertaken. A contextual analysis should recognize which reforms are most in demand, the risks they carry and the challenges that they must overcome. Analysis of essential factors, such as domestic social and cultural structure, economic context, and the characteristics of the State, as well as the extent of legal, political and economic informality, are critical to building appreciation for the complexities involved and for avoiding many pitfalls of reform.

67. While the scale of necessary change can seem daunting, this does not mean that small steps are of no value. Starting with changes in some policy areas first can create the conditions that strengthen the voice of the poor, thereby putting them in a better position to call for additional institutional reform. It can also demonstrate to other stakeholders, including government institutions, business owners, and employers, for example, that the benefits of legal empowerment of the poor can be diffused to other parts of society.

68. Legal empowerment of the poor is both a development strategy and a development objective. While its priorities should be set by the poor and for the poor, they should also be guided by human rights principles of equality and non-discrimination, participation and accountability. Development should aim at enhancing the capacities of rights-holders to know and claim their rights. Solutions need to be tailored to the specificities of all the social groups living in poverty and the particular vulnerabilities they face. In empowering the most marginalized and excluded groups, national development strategies can benefit from the guidance of basic human rights principles in all phases of the process.

69. Basic human needs, understood as fundamental human entitlements, are not a matter of charity but of justice, and should therefore be embodied in clear, legally binding standards. This would provide a specific mandate for public officials to take action and rights claimants to hold duty bearers accountable. Countries should therefore ensure that they create an effective legal framework which recognizes human rights and provides mechanisms for their enforcement.

70. Human rights standards require the establishment of judicial or quasi-judicial mechanisms of redress. These mechanisms must be accessible and effective, and procedures must be transparent and facilitate the active and informed participation of the poor. Non-judicial means of accountability, including quasi-judicial (e.g., ombudsman, treaty bodies), political (e.g., parliamentary process) and administrative (e.g., human rights impact assessment) mechanisms, are also critical.

71. It is important to ensure that there are a sufficient number of both adequate and equitable justice mechanisms available, and that they are accessible to, and affordable for, the poor and acceptable in terms of quality. With this objective in mind, Governments may establish innovative, non-formal dispute resolution mechanisms that are of good quality, accessible to the poor and consistent with all relevant human rights standards and principles. Additional courses of action in the field of the rule of law include increasing access to justice, provisions for legal identity and birth registration, repealing or modifying laws that are biased against the poor, facilitating the creation of civil society organizations, and establishing effective and impartial policing. Further measures include making the judicial and land administration systems and public institutions more accessible by recognizing and integrating customary and informal procedures which already work for the poor. There is also the need to strengthen and make accessible accountability, appeal and oversight mechanisms in justice systems to allow the poor to bring complaints about abuse of power and authority, corruption and discrimination.

72. With respect to property rights, an agenda for legal empowerment of the poor would need to focus on promoting an inclusive and pro-poor property rights system, ensuring equitable and sustainable access to land and other natural resources, taking into account the imperatives of food security and sustainable livelihood. It will be critical that the poor enjoy the security and stability of tenure so that they do not

live in constant fear of movement, displacement and eviction. Access to and ownership of land and effective land governance, both in rural and urban areas, can mitigate the risks of tenure insecurity and facilitate poverty eradication.

73. Legal empowerment of the poor can contribute to poverty eradication through the protection and promotion of labour rights and rights to self-employment and businesses by supporting initiatives that aim at strengthening identity, voice, representation and security of contracts and also at reducing transaction costs and uncertainty for the poor, especially for those who toil in the informal economy. This will require reviewing and improving the quality of existing regulations and could be complemented by a minimum set of enforceable labour rights for workers in the informal economy. Strengthening access to opportunities, supporting inclusive social protection and promoting gender equality are actions that will also greatly benefit the poor. Effective engagement with stakeholders at the grass-roots level, business associations, and relevant government institutions is crucial for the successful implementation of such initiatives.

74. Legal empowerment of the poor should also focus on removing unnecessary barriers to formal markets and institutions, increasing opportunities for business linkages and market access, increasing benefits and protections for all working in the informal economy, strengthening the organization and representation of informal entrepreneurs, and providing equal access for micro-entrepreneurs to protection, services and utilities.

75. To enhance sustainability, effectiveness and inclusiveness of its poverty eradication efforts, the United Nations system should place greater emphasis on, taking into account existing and evolving human rights mechanisms, viewing development from an end-user perspective and to this end address in more detail the issues of rights, including labour rights, property rights, as well as other rights essential for the livelihoods of the poor.

76. Legal empowerment of the poor requires raising community-level awareness, access to legal services, including paralegal services. To this end, the international community should be encouraged to support community-based initiatives and civil society organizations working on these issues. In furthering legal empowerment of the poor, national and subnational poverty reduction strategies should include special programmes to provide free and equal access of the poor to courts, tribunals and other dispute resolution mechanisms and promote their right to a fair trial in both civil and criminal proceedings. Initiatives of legal empowerment of the poor should support social movements to strengthen the voice of the poor and marginalized people and safeguard their rights.

77. Given that the vast majority of the adult poor are women, legal empowerment efforts should also support awareness-raising and legal literacy campaigns targeting women, including rural women, on gender equality to encourage and empower them to demand justice. Provision of legal aid services to women and removal of all impediments that women may encounter in accessing justice must be mainstreamed in all development interventions. There should be concerted efforts to revise and repeal discriminatory laws and related administrative practices to ensure women's full and equal access to economic resources, including their inheritance and equal right to own property. Additional efforts are also needed to address justice for children as well.

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Follow-up to the tenth anniversary of the International Year of the Family

Report of the Secretary-General

Summary

The present report is submitted in response to General Assembly resolution 62/129 of 18 December 2007.

The report addresses the issues of family policy, integrating a family perspective into social protection and investing in intergenerational solidarity within families and communities. The report also provides updated information regarding the continued follow-up to the tenth anniversary of the International Year of the Family, based upon submissions by Member States.

The activities of the United Nations Programme on the Family are also highlighted. The report concludes with suggestions and recommendations concerning areas for future consideration by the General Assembly.

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Contents

		Page
I.	Introduction	3
II.	Follow-up to the tenth anniversary of the International Year of the Family: family policy, social protection and intergenerational solidarity	3
	A. Family policy	3
	B. Integrating a family perspective into the promotion of social protection	8
	C. Investing in intergenerational solidarity within families and communities	11
III.	Action taken at the national level concerning family issues	15
IV.	Follow-up by the United Nations Programme on the Family	18
V.	Conclusions and recommendations	18

I. Introduction

1. In its resolution 62/129 of 18 December 2007, entitled "Follow-up to the tenth anniversary of the International Year of the Family and beyond", the General Assembly encouraged Governments to continue to make every possible effort to realize the objectives of the International Year of the Family and to integrate a family perspective into national policymaking. The Assembly also invited Governments to continue to develop strategies and programmes aimed at strengthening national capacities to address national priorities relating to family issues and encouraged the United Nations Programme on the Family, within its mandate, to assist Governments in this regard.

2. The present report provides a synthesis of recent actions taken by those Governments which responded to the note verbale of 9 April 2009 seeking information on the implementation of activities related to General Assembly resolution 62/129. As at 26 June 2009, a total of 19 responses to the note verbale had been received from Algeria, Austria, Azerbaijan, Brazil, Chile, Colombia, Finland, Greece, Indonesia, Japan, Malta, Peru, the Philippines, Qatar, the Republic of Korea, the Russian Federation, Switzerland, Ukraine and the Holy See.

3. Also used in the preparation of the present report were the findings of an expert group which held a meeting on the theme "Family policy in a changing world: promoting social protection and intergenerational solidarity". The expert group meeting was organized by the Department of Economic and Social Affairs of the United Nations Secretariat in April 2009 in Doha, in cooperation with the Doha International Institute for Family Studies and Development.

II. Follow-up to the tenth anniversary of the International Year of the Family: family policy, social protection and intergenerational solidarity

4. Protection of the family by society and the State is enshrined in the Universal Declaration of Human Rights. Supporting families, providing social protection and furthering social integration through the strengthening of intergenerational solidarity are all important facets and objectives of social policy and social development. An analysis of the interrelationships among family issues, social protection and intergenerational solidarity can contribute to a better understanding of public policy options. Those interrelationships are of particular relevance during the current economic crisis, in which many families have been thrust into poverty and in which social protection and intergenerational solidarity are important coping mechanisms.

A. Family policy

Family policy and integrating a family perspective into policymaking

5. There is no general consensus among family policy scholars on how to define family policy. However, one approach used to discuss family policy and increase awareness of the policies that affect families is to make the distinction between explicit and implicit policies.

6. Explicit family policies include those policies and programmes that are deliberately designed to achieve specific objectives regarding the family unit, individuals in their family roles or children. Thus, explicit family policies may cover such major family functions as:[1]

(a) Family formation (such as laws and policies on marriage and divorce, domestic violence, family planning, policies to encourage childbearing, maternal health and the adoption of children);

(b) Economic welfare (such as providing income security for family members' basic needs, cash and tax benefits, employment-related benefits for working parents and inheritance law);

(c) Childrearing (such as child health and protection, childcare, the promotion of responsible parenting and the provision of foster care);

(d) Family caregiving (such as assistance for family members who are ill, frail, have disabilities, or older and in need of assistance or care).

7. In this context, family policy may include a diversity and multiplicity of policies rather than a single monolithic, comprehensive legislative act.

8. Implicit family policies are not specifically directed to any of the above-mentioned family functions but rather have indirect consequences on families and their children. They include actions taken in policy areas such as education, employment, health policy, including HIV/AIDS, housing and immigration.

9. In order to fully consider the effects on families of any policy, in particular implicit policies, it is necessary to analyse the policy from a family perspective in order to be fully aware of any unanticipated impacts and to improve policy consistency and coherence. This integration of a family perspective into policy analysis allows for the monitoring of a broad range of policies and actions in terms of their potential or actual impact on children and their families. This approach can be particularly helpful in identifying and correcting unintended negative consequences on families. Analysing public policies from a family perspective is therefore particularly important for those countries that do not have explicit family policies.

The effects and effectiveness of family policy initiatives

10. Whether countries have explicit or implicit family policies, or both, what is considered important by many family policy experts is that the policies in place reflect a deliberate political decision. Other elements of policy effectiveness include clarity and consistency, so that the elements of the policy and its objectives are fully understood and are not contradictory. A holistic approach to the formulation and implementation of public policy is also considered important for effectiveness, as often a country's family policy may be made up of a series of policies that may be fragmented or result in significant gaps where particular issues may not be addressed.

11. Monitoring the impact and effectiveness of family policies is often hampered by data gaps, such as the absence of systematic data on the well-being of the family

[1] Based upon Karen Bogenschneider, *Family Policy Matters: How Policymaking Affects Families and What Professionals Can Do* (Mahwah, New Jersey, Lawrence Erlbaum Associates, 2006).

and family members. In order for a family policy and the policy instruments at the national level to be effective, a country must have an institutional mechanism responsible for overseeing, implementing and monitoring the policy and measuring its results.

12. Two important principles for consideration of the effects and effectiveness of family policy initiatives are child well-being and gender equality. Addressing and promoting child well-being through health care, quality childcare and child education and the promotion of responsible parenting is an important element of an effective family policy. Respect for gender equality is another important element, including awareness of the potential effects of policies on women and men and how they affect the status of women in the family and in society.

13. In both of those cases, this also implies implementing policies for the early detection, reporting and intervention in cases of abuse, including abuse of children and older persons, gender-based and all forms of domestic violence, providing appropriate services and law enforcement protection for the victims and setting appropriate consequences for the perpetrators, while also providing them with behavioural-change services and counselling.

Balancing work and family life

The competing tasks of female labour force participation and childcare

14. Balancing work and family life is high on the policy agendas of many countries, and the current demographic and social trends indicate that this demand will continue. The increase in female participation in the labour market calls for adjustment in the gender division of labour within the household and the sharing of family responsibilities. The rise in single parent families in which the parent is working in the labour force brings additional challenges.

15. The emerging family model of two working parents brings benefits but also demands social adaptations. While national experiences may vary, many societies were, and still are, organized around a form of family based on highly differentiated gender roles, with a breadwinner husband and a wife at home taking care of children and any older family members. No social provisions were necessary for very young children or the elderly, as their care fell on the mother at home.

16. Balancing work and family life is therefore not only a matter of providing assistance to women or families, but also a central issue for society to adapt to the new opportunities for women and the new family model of mothers participating in the labour force.

17. For the increasing number of families in which there is a working mother, coping with the competing activities of labour market work and caring for children means drawing from existing resources, be it from public policies, facilities provided by employers, which are usually limited or non-existent, or family and personal strategies. An absence of either public policies or employer facilities often puts the burden on the family network, usually on the working mother. When the strain between family and work increases, the consequences can be direct for both

employers, via reduced productivity or women giving up employment, and for the family and society, via women delaying or foregoing childbearing.[2]

18. Balancing work and family life therefore consists of addressing the specific issues and problems that working parents confront on a daily basis. These may include situations in which parents care for very young or ill children, or when they find it difficult to coordinate work and school schedules.

19. Concern has been expressed that the low fertility experienced in many countries could be directly related to difficulties in reconciling work and family life. An increasing number of developed countries have enacted policies and established facilities for combining work and childcare. In most of those countries, the traditional inverse relationship between the rate of participation of women in labour force and fertility has become positive: those countries now have higher fertility rates and also have high rates of female participation in the labour force.[3]

Policy instruments

20. Among the policy instruments aimed at reconciling work and the family are parental leave, childcare services and child benefits.

21. Parental leave includes maternity, parental childcare and paternity leave, and leave or a reduction of time worked for urgent family matters. Maternity leave varies by country according to the length of service and percentage of salary received. Parental childcare leave is intended for the care of small children at home by the mother or the father. Among the countries that have this leave policy, the most significant difference is whether or not the leave is paid. Two common features are the right of the parent to return to her or his employment after the period of leave and the explicit provision that the leave may be taken by either the mother or the father. Despite this provision, the leave is taken by an overwhelming majority of women. Paternity leave has become available in some countries based on the assumption that having both parents taking leave would result in fathers being more actively engaged in childcare. A reduction of time worked and leave for urgent family matters are less common and vary significantly by country.

22. While childcare services are available in many countries, in most it is the family that takes care of very young children. For working mothers, the early childhood period is particularly challenging, even when childcare services are available and utilized. For children over three years of age, early education tends to be included in the general school system, with the focus on education rather than care. These preschool services may be funded publicly or privately, with the public-private ratio varying among countries.

23. Child benefits, such as cash allowances to cover childcare expenses, have played a growing role as a way of supporting the balance between work and family life in developed countries and in some economies in transition. The rationale is that they allow parents to freely choose the modality care of given to their children. They can also be received as a form of remuneration for a stay-at-home parent, who

[2] Ibid.

[3] Juan Antonio Fernandez Cordon, "Policy issues for reconciling work and the family", paper prepared for the United Nations expert group meeting on the theme "Family policy in a changing world: promoting social protection and intergenerational solidarity", held from 14 to 16 April 2009 in Doha.

is usually the mother, and is therefore perceived by many as a preference for childcare by the mother.

Special issues regarding family policymaking in developing countries

Cultural diversity and customs

24. In some developing countries, the formulation of a comprehensive national family policy can be complicated by social heterogeneity. Considerable cultural diversity may exist between regions, rural and urban areas, social classes and different religious and ethnic groups. Countries vary in their multiculturalism and microregions, which may have differences in levels of female literacy, average age at marriage, incidence of dissolution of marriage, family and household size, rates of female participation in the workforce, marital practices, gender relations and the authority structure within the family.

25. Barriers to the creation of a national policy in an area as personal as family may be intricate and may have formed over several hundreds of years. In particular, minority groups may be suspicious of initiatives to form a national policy, viewing it as an attempt to force them to abandon long-held traditions. It may also be interpreted as an increase in State intervention in the area of family, which could generate opposition from certain groups.

26. Many long-held family traditions and customs are quite positive and result in families that are strong and supportive. However, there may also be harmful customs or practices that hurt family members and violate their human rights, such as female genital mutilation, child marriage, gender-based violence and child abuse or abandonment. In such cases, the first challenge is to address the harmful custom through an explicit family policy or law. Subsequent challenges include awareness-raising, particularly in remote areas, and the implementation and enforcement of the policy or law.

Resources, education and capacity-building

27. In many developing countries, there are low levels of financial resources for the formulation and implementation of family policies, and they may not be given the same priority or sense of urgency as other policies, such as poverty eradication or economic development.

28. Education in family issues and, in particular, in family policy is often very limited. While departments of social work may exist at universities, programmes focused on families, such as family studies, family psychology, or family counselling, are usually non-existent, resulting in a shortage of local family scholars and practitioners.

29. In order to build capacity in this area, family life education could be introduced at different instructional levels, such as at universities, secondary schools, community centres and hospitals, in order to have qualified personnel to provide family social services. Those services would have a focus on family relations, marriage and parenting. Premarital and marital counselling could be provided and support groups formed to promote marital and parenting quality, effective conflict-resolution skills and financial management knowledge. The international community could also increase efforts to develop or provide access to training in family policy for government officials.

Families, displacement and international migration

30. Many developing countries are affected by displacement and migration, which have very visible impacts on families. Displacement is usually driven by distress. Humanitarian crises and natural disasters are increasing and conflicts are becoming more protracted, resulting in large numbers of internal and cross-border displaced persons and refugees. Migration in search of work is becoming a way of life, with close to 200 million international migrants recorded globally.[4] If internal migrants were included, the number would be much higher. Whether there is displacement or migration, either of individual family members or of the whole family unit, there can be significant psychological impacts and social costs resulting from the separation of family members. In some countries, significant numbers of children live without one or both parents, who are working abroad.

B. Integrating a family perspective into the promotion of social protection

31. Social protection plays a crucial role in social development. Article 16.3 of the Universal Declaration of Human Rights directly links social protection to the family: "The family is the natural and fundamental group unit of society and is entitled to protection by society and the State."

32. At its thirty-ninth session in February 2001, the United Nations Commission for Social Development addressed the priority theme "Enhancing social protection and reducing vulnerability in a globalizing world".[5] In its resolution 39/1, the Commission recognized the need for further analyses, research and sharing of views with regard to enhancing social protection and reducing vulnerability in a globalizing world (see E/2001/26-E/CN.5/2001/9, chap. I). A relevant social development objective is therefore to examine social protection in the specific context of family policy and the integration of a family perspective into social protection systems. This objective is of particular relevance for the well-being of families during periods of social and economic stress, such as the current economic crisis.

Social protection and family policy

33. Social protection may be seen as an explicit approach to attenuate, reduce, mitigate or cope with the vulnerability of and risk to individuals and, by implication, families. It can be broadly understood as a set of public and private policies and programmes undertaken by societies in response to various contingencies to offset income reductions or absence of work and provide people with health care, housing and other social services. [6] Social protection is often seen in the context of social assistance, which encompasses public actions that are designed to transfer resources to groups deemed eligible due to deprivation, as well as social insurance, financed by contributions, where individuals, families or

[4] See "Trends in Total Migrant Stock: the 2005 Revision", p. 1, Department of Economic and Social Affairs, Population Division.

[5] See report of the Secretary-General (E/CN.5/2001/2) and *Report on the World Social Situation 2001* (United Nations publication, Sales No. E.01.IV.5), chap. XIV,.

[6] See *Report on the World Social Situation 2001* (United Nations publication, Sales No. E.01.IV.5), chap. XIV.

households protect themselves against risk by pooling resources with a larger number of similarly exposed people.

34. Social protection policies and systems and family policies are closely interrelated. Traditionally, kinship and the family served as the basic system of social protection. Currently, in some countries the State has assumed much of the responsibility for social protection, while in other countries the family continues to provide many social protection functions, such as caregiving to older family members. Social protection policies may be designed specifically for families, such as assistance to families with children, or in direct relation to family, such as policies to protect children from family-based child abuse. Other social protection policies, such as unemployment benefits and pension systems, also affect families indirectly.

35. It is therefore recommended that the process of formulating and implementing social protection systems and long-term development plans fully consider family as a key socio-economic unit in society. It is also recommended that social protection policies be aligned with family support policies in all areas and aspects, including health, education, housing, retirement, income support and food security.

36. In many developing countries, a significant proportion of the population is engaged in rural or urban self-employment and is therefore outside any formal system of social protection. Extending formal and public social protection to traditionally excluded groups is a challenge. In recent years, programmes that cover short- and long-term social contingencies have seen a surge of interest by developing countries and among donor agencies. This has been a result in part of the experiences in Latin America around conditional cash transfers, which are often family based, and the experience of many African countries in intergenerational care — again, usually family based — in the context of HIV/AIDS.

37. However, at the same time, in both developing and developed countries there has been an overall reduction in public social spending during the past three decades in the context of policies promoting economic liberalization and reduced government. These spending cuts and the resultant public financing strain have reduced the coverage of social protection as well as the provision of social services, including the provision of family services, resulting in negative impacts to family well-being.

Children, families and social protection

38. In many countries, children remain one of the most vulnerable groups in society. They also comprise a large proportion of the population in developing countries. Children are overrepresented among the poor, whereas the impact of poverty and social exclusion are compounded for girls, children with disabilities and children from marginalized communities. They do not generally have voice when they are very young, and are reliant primarily on their parents and family.

39. Oversight bodies that protect child rights often do not exist, and social services in support of the family tend to be fragmented. Neglect of children in the areas of health, nutrition, education and care can have effects that are irreversible. Against

such a background, the basic principles that should guide the development of child-sensitive social protection are:[7]

(a) Making special provision to reach the children who are most vulnerable and excluded, including children without parental care, as well as children who are marginalized within their families or communities due to gender, disability, ethnicity or other factors;

(b) Intervening as early as possible where children are at risk in order to prevent irreversible impairment or harm to children;

(c) Addressing the age and gender specific risks and vulnerabilities of children; and

(d) Recognizing that families raising children need support.

Gender, families and social protection policies

40. Women play a central role in the family. They contribute to all the functions of the family, including, but not limited to, family creation, economic support, child-rearing and family caregiving. They keep their families together, undertake the provision of care for those who are sick, play a key role in securing food and are, in general, the backbone of socio-economic activities. It is important that social protection schemes and programmes recognize the centrality of women in families and seek to fully support women and achieve gender equality.

41. However, many women may be caught in the paradoxical situation that, having worked hard to care for and protect their families all their lives, the patriarchal nature of their society does not give them equal treatment in social protection when they need assistance from either informal institutions or formal systems. There are many gender inequality challenges that they face, including local customs and legal institutions that often discriminate against the ownership and control of land and resources by women and limit their access to employment, education and public services, as well as the disproportionate effects of domestic violence.

42. Of particular concern to family policy and social protection is gender-based violence. One major challenge is attitudinal change on the part of families and communities that hold on to cultural practices of violence to girls and women, such as early marriage or spousal abuse of wives. Governments have a major responsibility to spearhead attitudinal change towards traditions that foster the subordination of women by men and that sustain gender discrimination and practices that are harmful to the health and welfare of women and girls.

Families affected by migration and displacement

43. Many policies that address migration focus on the economic aspects and legal protection issues of receiving countries. There is usually not much attention paid to the psychosocial impact that migration has on families and the support they need to

[7] See United Nations Children's Fund, "Advancing Child Sensitive Social Protection", joint statement of Governments, international organizations and research bodies concerned with social development and child rights, draft June 2008, (to be issued in 2009) as quoted in Gabrielle Koehler, "Social protection and developing countries: a view from South Asia", paper prepared for the United Nations expert group meeting on "Family policy in a changing world: promoting social protection and intergenerational solidarity", held from 14 to 16 April 2009 in Doha, p. 5.

adapt to this phenomenon. Policies need to be developed to support migrant families and children, through programmes that provide information on migration to assist families — both the family members who migrate as well as those left behind — to cope with the challenges of migration, as well as individual and group support for children, parents, grandparents and other family caregivers.

44. In addition, migrants and their families from developing countries may not be eligible for social protection or other family services in host countries and usually do not acquire health insurance or old-age pension entitlements or face obstacles to the portability of pension benefits, which leaves them especially vulnerable. Given the scope and the scale of the issue, social protection for migrants, their families, and especially for refugees and internally displaced persons/families, is an urgent policy issue.

C. Investing in intergenerational solidarity within families and communities

45. The promotion of social integration is one of the major pillars of the World Summit for Social Development, which was held in Copenhagen in 1995. Member States of the United Nations committed themselves, inter alia, to strengthening institutions that enhance social integration, recognizing in this context the central role of the family and providing it with an environment that assures its protection and support. Important aspects of social integration are social inclusion, social cohesion and intergenerational solidarity, which are often interconnected.

46. The Madrid International Plan of Action on Ageing 2002[8] adopted at the United Nations Second World Assembly on Ageing, states that solidarity among generations at all levels — in families, communities and nations — is fundamental for the achievement of a society for all ages. Despite geographic mobility and other pressures of contemporary life that can keep people apart, the great majority of people in all cultures maintain close relations with their families throughout their lives. Those relationships work in both directions, with older persons often providing significant financial contributions as well as in the education and care of grandchildren and other kin. The Madrid International Plan of Action on Ageing therefore contains an explicit objective to strengthen solidarity through equity and reciprocity between generations.[9]

47. Intergenerational relations are also relevant to youth policies and were included as one of the five additional issues in the Supplement to the World Programme of Action on Youth which was adopted by the General Assembly in 2007 (see General Assembly resolution 62/126, annex). The Supplement notes that trends in globalization and development have resulted in situations in which many young people are cut off from their families and, due to migration, older persons may be left behind without the traditional support of families or adequate financial resources. While older persons lose opportunities to receive support from younger members of their families, younger persons also lose opportunities to benefit from the knowledge and guidance of older family members.

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[8] *Report of the Second World Assembly on Ageing, Madrid, 8-12 April 2002* (United Nations publication, Sales No. E.02.IV.4) chap. I, resolution 1, annexes I and II.

[9] Ibid., chap. II, para. 44.

48. Scholars of intergenerational solidarity often consider that the interdependence among generations during the life cycle can be analysed at two levels:[10]

(a) The macrosocial level among age groups or cohorts who identify with specific events or national and global situations;

(b) The microsocial level within families among grandparents, parents and grandchildren. Relationships among the generations include those among members of nuclear and extended families, such as aunts, uncles, cousins and siblings.

49. As the most basic social institution, the family is the natural and essential social structure in which intergenerational solidarity is created and reinforced. It represents the first group into which one enters at birth, and family ties remain primary over the life course. Indeed, the first intergenerational relationship is that between parents and children.

50. During the past several decades, there have been significant changes in demographic behaviour that affect intergenerational relations and the life course of family members, including: reduced fertility; increases in out-of-wedlock births; rising age at marriage; increased prevalence of singlehood and divorce; increased age at which children leave their parents; increased number of children living with one parent; increases in the number of older persons living both longer and independently; and increases in the number of families affected by migration.

51. In most countries, changes in patterns of family formation and dissolution and the diversification of households have led to more complex and diverse family and household structures. This diversity can create uncertainty in intergenerational relations and expectations and can have specific effects on life course role transitions, such as grandparenthood and retirement. The structural organization of the family is particularly critical for those in middle age, a phase in life when individuals are likely to play multiple roles of parent, worker, breadwinner or co-breadwinner and caregiver to older parents.

52. As a result of increased life expectancy, some individuals will be members of three- or even four-generation families for longer periods of time, while declining fertility rates and delayed parenthood suggest that others may never be members of such multigenerational families.

53. Another area of change related to increased life expectancy is the unprecedented growth in the number and proportion of older persons in most countries around the world, a trend which is expected to continue. The proportion of people age 60 and over is increasing faster than any other age group. Within this group, that of the "oldest old" is also growing.

54. While population ageing is not in itself a problem, it does entail a changing balance between older and younger people in society and the challenge of establishing new generational relations of mutual support and inclusion at both the microlevel of families and macrolevel of societies.

[10] Vern L. Bengstrom and Petrice S. Oyama, "Intergenerational solidarity and conflict: what does it mean and what are the big issues?", paper prepared for the United Nations expert group meeting on the theme "Intergenerational solidarity: strengthening economic and social ties", held from 23 to 25 October 2007, in New York.

55. The increase in life expectancy of older persons also means that a growing number of them who become frail will need more care and support. Caregiving by adult children to their older parents is a major social issue, because families in modern societies are still the main source of care and support for older persons. A number of Governments have adopted budgetary allocations for cash benefits and services targeted towards families caring for an elderly family member. At the same time, policy measures are also necessary to prevent abuse or neglect of elders by family members and institutional caregivers.

56. In light of these changes and in the context of the current crises, intergenerational bonds among family members may be even more important today than in the past. There is a need to further explore how intergenerational solidarity could be strengthened through public action. One major question is what the role of society will be, through its provision of social services and social protection, in enhancing relations between generations at the family level.

Multigenerational living arrangements and intergenerational financial transfers

57. One way to observe the dynamics of intergenerational family relationships and how they have been changing over time is to look at trends in multigenerational living arrangements and intergenerational financial transfers. Multigenerational households, in which older persons live in three-generation settings, are common in many parts of the world, particularly in Asia. However, the prevalence of those living arrangements has been declining over the past several decades.[11]

58. In many countries, in particular those that have been developing quickly, the income sources of older persons have changed considerably. The proportion of older persons receiving public pension benefits has increased over time, as has the number of those who are able to rely on their own savings or who retire later, while the proportion of those who receive financial support from children has subsequently decreased.

59. These demographic and socio-economic transformations are affecting the pattern and mode of both private and public intergenerational transfers. The composition of per capita net transfers to the older population has been changing: the amount of per capita net public transfers to the older population has been increasing while, in contrast, the relative importance of per capita net familial transfers from younger to older persons has been declining. These results seem to indicate that older persons have been increasingly dependent upon public transfers, predominantly in the form of old-age pensions and medical care services, in supporting their retirement.

60. Of particular interest is that in times of economic hardship, the relatively young older persons (those in their 60s and early 70s) have provided financial assistance to their adult children and/or grandchildren. This phenomenon has been observed in many countries, including developed, developing and economies in transition, and appears to suggest that familial transfers may be more flexible and responsive than public transfers in coping with large-scale economic shocks. It also shows that the level of intergenerational solidarity of retired parents to their adult children is quite strong. In some countries, older persons who have been

[11] See "Living Arrangements of Older Persons Around the World", 2006, Department of Economic and Social Affairs, Population Division.

increasingly dependent upon a steady and secure public pension play a vital role in providing financial support — and intergenerational solidarity — to their adult offspring when they need it.

61. While it is too early to measure any similar effects or draw analogous conclusions from the current financial and economic crises, a related issue is the form of the pension systems. In some countries, there has been a move from a defined benefit pension plan to a defined contribution system, where the individual is responsible for managing a significant portion of his/her retirement investments. Significant decreases in equity markets from the financial crisis have had significant effects on the financial pension resources of older persons in those countries and therefore could also influence the intergenerational dynamics linked to intergenerational financial transfers.

Active ageing in the family and community

62. Promoting a harmonious relationship between development and demographic ageing implies a public policy that builds the capacities of older persons and promotes opportunities for them to contribute to society. This should be reinforced further by the promotion of active ageing, which consists of three pillars — older persons' health, participation and security. The overall premise is that active ageing will enable older persons to participate in the community, provided that they are given support, particularly from the younger generations. Active ageing rests on improving the health and quality of life throughout an individual's lifetime beginning in childhood.

63. The links between active ageing and intergenerational solidarity are therefore far from being restricted to the prevention of the social exclusion of older persons. Since active ageing increases the quality of life of an older person, that person's family members may benefit as well. To the extent that active ageing assists older persons in enjoying improved health and well-being, their needs for care and support from younger family members may be reduced and their ability to continue to contribute to family life will be enhanced.

64. The focus of active ageing is not necessarily to extend the working life of older persons, but to provide them with choices and opportunities for participation and interaction, including the opportunity to continue working at a reduced level of hours or to serve as mentors to their younger co-workers in the workplace, to start another career in a field of interest or to do volunteer work.

65. The establishment of centres of active ageing where young and old people can meet, interact and work together is important for the promotion of intergenerational relations and solidarity through common activities and quality of life for older persons as well as for the prevention of social exclusion. It is therefore recommended to promote intergenerational solidarity through initiatives that build partnerships and cooperation between youth and older persons' organizations and through age-friendly initiatives by cities and communities, including agrocentres in rural communities.

III. Action taken at the national level concerning family issues

66. As stated in paragraph 1 above, in its resolution 62/129, the General Assembly addressed several issues to Governments. A summary of national submissions is presented below.

67. In Algeria, a new civil and administrative code was enacted in February 2008 that covers family, particularly marriage, divorce and safeguarding the interests of minors. Other recently adopted measures include: the installation in 2007 of a National Family Council; the finalization in 2008 of an operational plan for the National Strategy on the Family; the National Strategy for the Integration and Advancement of Women (2008-2013); and the National Plan of Action for Children (2008-2015), with the support of the United Nations Children's Fund.

68. Austria hosted the Conference of Ministers of the Council of Europe responsible for Family Affairs in June 2009, on the theme "Public policies supporting the wish to have children: societal, economic and personal factors". In addition, the fifth Austrian Family Report 2009, a comprehensive research report issued every 10 years, will be submitted to Parliament in autumn of 2009. The report is designed to provide research findings on the situation of families and the challenges to be addressed by family policies.

69. In Azerbaijan, in March 2009, an article was added to the Constitution that expands the protection of the rights of children and creates a more child-friendly society following a referendum. During the past three years, basic family policy priorities have included strengthening social protection among mothers and children, including decreasing the maternal and child mortality rates, and legal provisions to ease the reconciliation of family and professional life for women.

70. Brazil has several family programmes: Bolsa Familia assists families living in poverty through cash transfers with conditionalities, such as school attendance by and vaccinations of children; the Programme of Integral Assistance to the Family contributes to preventing and combating social risk, servicing families through social care reference centres; the Family Health Programme provides comprehensive health-care assistance to families by teams of health professionals; and the Programme of the Fight against Domestic and Family Violence enabled a 2006 law that enforces legal protections against domestic violence.

71. In Chile, the Family Foundation is a private, non-profit institution established by the Government in 1990 to strengthen families and improve their quality of life. It has 15 family centres throughout the country that provide education and training and facilitate the participation of families and community groups in the improvement of the quality of life of communities. During the observance of the 2009 International Day of Families in Chile, the theme was "Say no to violence against women", and men from different backgrounds committed themselves to the campaign to end violence against women.

72. The Government of Colombia, together with the Colombian Institute for Family Well-being, has adopted several joint measures. They include intensifying the Institute's plan for 2007-2010 to improve conditions for families, children and adolescents, and implementing programmes promoting nutrition for young children, providing food security for older persons and increasing the ability of the Institute to reach potential beneficiaries. During 2009, the Institute will establish specialized

mobile units for the treatment of women who have been victims of sexual or family violence.

73. Finland launched a Policy Programme for the Well-being of Children, Youth and Families in December 2007, based on the theme of well-functioning and balanced parenthood as the core of families' well-being. A family centre model is under development with the objective of establishing a service system supporting families and promoting well-being among children and young people. At the base of the family policy are three pillars: a child-oriented society; thriving families with children; and the prevention of social exclusion.

74. Greece has in place several policy initiatives to balance family and professional life. They include several different provisions for paid and unpaid family leave of varied duration for marriage, childbirth, childcare, single-parent families, monitoring a child's school performance and caring for an ill child. Most recently, under a 2008-2009 collective labour agreement, family protection and work facilitation benefits were extended to foster parents.

75. In Indonesia, support and protection of the family is based on the overarching strategy of empowering families to manage their households and be resilient. Programmes for families are integrated into human resource and economic development programmes, and assist families with parenting issues, family planning, support for older persons and income generation. Special attention is given to empowering families living in poverty, those with children under five and those with adolescents and young adults.

76. In Japan, a prioritized strategy was enacted in December 2007 that requires implementation of a plan to harmonize work and family life. In February 2008, a strategy to eliminate waiting lists for nurseries was launched, and includes a substantial expansion in capacity of childcare services. In December 2008, amendments were enacted to the law on measures to support the development of the next generation in response to the rapid decline in the birth rate, and a decision was made to further combat the decline through a tax system reform.

77. In Malta, the Ministry for Social Policy has been strengthening national capacities to implement and monitor family policy in the fields of child day care, adoption agencies and fostering agencies. It has contributed towards the drafting of the Adoption Act and the Fostering Act, and has developed new criteria and standards for adoption and fostering agencies and for child day care. Research and consultation with stakeholders has also been undertaken to study compliance levels to the new standards and to identify and address obstacles.

78. The National Plan of Support to the Family 2004-2011 of Peru has set in motion public policies on family in every branch of Government. It has also established the Directorate of Support and Strengthening of the Family, which has carried out training of social workers on family issues, provided technical assistance to local government offices in support of policies to strengthen the family, conducted radio programmes to reduce family violence, established breastfeeding areas within businesses and worked to promote the reconciliation of work and family life.

79. The Philippines has expanded the powers, functions and membership of the National Steering Committee for the Family Week, now known as the National Committee on the Filipino Family. One of its responsibilities is to implement the

Decade Plan for the Filipino Family 2005-2015. Activities include training and education programmes in the area of strengthening family relationships, fostering family-friendly communities, expanding financial resources for poor families, research on family services and capacity-building to organizations that work with families.

80. Qatar has enacted several new initiatives regarding family. In particular, a new centre for disabled children, orphans and other children with special needs has been established. Recent policies and legislation include a new family code in 2006, a resolution regarding housing for families in 2007, and the review and improvement of policies regarding women's and children's health. The Doha International Institute for Family Studies and Development is pursuing research on family policy issues and has recently held several regional and international seminars, colloquiums and meetings.

81. The Republic of Korea enacted, in 2008, the "Act on Equal Employment and Reconciliation of Work and Family", which has enhanced the protection of pregnant women in the workforce and introduced a parental leave system and reduction of work hours to accommodate parental childcare. A comprehensive plan for improving childcare services has also been implemented, which includes new childcare facilities at places of work and public babysitting services. The "Family-Friendly Social Environment Promotion Act" was also enacted in 2008, and includes a family friendliness index survey and a certificate system for family-friendly corporations.

82. In the Russian Federation, 2008 was declared the Year of the Family. Since starting its new childbirth benefit in January 2007, whereby mothers are given maternal vouchers after the birth of more than one child, child-based subsidies have been enhanced, and subsidies for fathers and family members who provide childcare have been increased. Targeted support to families is also being enhanced, including to young, low-income, single-parent and foster families, and to families with many children.

83. In Switzerland, the former Office for Family Issues was replaced by the Office for Family, Generations and Society, which addresses issues relating to family, children, youth, older persons, intergenerational relations, as well as social policies in general. The Parliament also adopted a measure that went into effect in January 2008 to address discrimination in the tax code that affected married couples in which both spouses work compared with cohabitating couples in the same situation. A forthcoming tax reform is expected to lessen the tax burden on families with children.

84. Ukraine has joined the Secretary-General's Campaign to End Violence Against Women, and has established a national "Stop the Violence" campaign. Civil society has been very much involved in proposing legal measures and in awareness-raising, including a national network of male leaders in society united against gender-based and family violence. Other recent family policy programmes include creating conditions for balancing work and family life, social protection of families with children, specifically including those with many children, and training programmes for men on responsible fatherhood.

85. The Holy See's Pontifical Council for the Family held the Sixth World Meeting for Families on the theme "The family, teacher in human and Christian values" in January 2009 in Mexico City. A second major initiative of the Council

was the statement of His Eminence Ennio Cardinal Antonelli on the theme "The mass media: a gift and a responsibility for all, a commitment for the families", delivered in September 2008 during the twenty-third International Congress for the Family, which was held in Slovakia.

IV. Follow-up by the United Nations Programme on the Family

86. In its resolution 62/129, the General Assembly also recommended that United Nations agencies and bodies, intergovernmental and non-governmental organizations, research and academic institutions and the private sector play a supportive role in promoting the objectives of the International Year of the Family and contribute to developing strategies and programmes aimed at strengthening national capacities. In this regard, the Programme on the Family has undertaken a range of activities since the submission by the Secretary-General, in July 2007, of his previous report on the follow-up to the tenth anniversary of the International Year of the Family and beyond (A/62/132). Some of those activities include the following:

(a) Provision of technical assistance to the Maldives (2006-2007) and Armenia (2009), upon their request, in formulating draft national family policies. Different consultants were identified and recruited to work with the relevant country ministries. The provision of assistance to Armenia began in 2009 and is still ongoing;

(b) Co-organization with the Economic and Social Commission for Asia and the Pacific, in collaboration with the National Population and Family Development Board, Ministry of Women, Family and Community Development of the Government of Malaysia, of a training exercise, the international Capacity-building Workshop on National Family Policies, which was held in Kuala Lumpur, from 3 to 5 December 2008. The Workshop brought together representatives of Governments and non-governmental organizations from six countries. The main objective of the workshop was to increase the capacity of participants in assessing, formulating and monitoring national policies and strategies on family and integrating them into national social development plans;

(c) Organization of the United Nations expert group meeting on the theme "Family policy in a changing world: promoting social protection and intergenerational solidarity" in April 2009 in Doha (see para. 3 above);

(d) Observance of the International Day of Families (15 May) in 2008, under the theme "Fathers and families: responsibilities and challenges", and in 2009, under the theme "Mothers and families: challenges in a changing world", as well as participation and representation at conferences and meetings organized by Governments, the United Nations system, non-governmental organizations and academia.

V. Conclusions and recommendations

87. **The present report: analyses family policy and its relationship to social protection and intergenerational solidarity; highlights some recent national actions to strengthen and improve the well-being of families; and presents some**

recent activities of the United Nations Programme on the Family. The report includes country information on family policy based upon submissions received by Member States. As shown by the information presented in their submissions, many Member States are carrying out a wide range of policies to promote family well-being using several varied policy instruments.

88. **In the light of the above, the General Assembly may wish to consider the following recommendations:**

Family policy

(a) **Recommend that Governments establish an institutional mechanism, if they have not already done so, such as a Ministry of Family or focal point for family policy within an existing Ministry, with sufficient organizational, fiscal and human resources capacity to promote the family as a policy priority; develop family protection measures; ensure that all legislation considers the roles and rights of the family and family members; and promote partnership with all family stakeholders at different levels of governance;**

(b) **Encourage Governments to undertake information campaigns to educate people about family issues, such as preventing domestic violence; reducing harmful stigmas; and the sharing of responsibilities between men and women;**

(c) **Urge Governments to improve the implementation and enforcement of laws prohibiting harmful traditional practices towards women, children, older persons and other family members;**

(d) **Facilitate the balancing of work and family life by promoting gender equality inside the family; family-friendly work schedules for parents, including through the regulation of the private sector and provision of incentives; and adequate childcare arrangements, evaluated in terms of their quality and accessibility;**

(e) **Emphasize the need for the international community, regional intergovernmental entities and Governments to identify, and ensure follow-up support to, the factors that enable or lead to constructive family policy developments, including inviting regional intergovernmental entities to facilitate the exchange of good policies and practices;**

(f) **Invite Governments and regional intergovernmental entities to provide for more systematic national and regional data, respectively, on family and child well-being, including data on major family and child problems and best practices in policy responses and, where possible, their effects, and including indicators on social protection and intergenerational solidarity;**

(g) **Invite Governments to recall that, in its resolution 59/111, the General Assembly decided to celebrate the anniversary of the International Year of the Family on a 10-year basis and further invite Governments to begin preparations for the upcoming twentieth anniversary of the International Year of the Family in 2014 and use the anniversary to advance family policymaking;**

Social protection and the family

(h) **Invite Governments to stimulate public debate and consultations on family-oriented and gender- and child-sensitive social protection policies;**

(i) **Encourage countries to adopt holistic approaches to policies and programmes that confront child and family poverty, social exclusion and other social risks. This holistic approach should be applied to such areas as the reduction of income poverty, along with ensuring access to health care, education, food aid and social services;**

(j) **Urge countries to make reductions of child poverty a priority, guided by the Millennium Development Goals, setting specific targets and monitoring their achievements;**

Intergenerational solidarity and families

(k) **Invite Governments to facilitate activities to promote intergenerational activities through the establishment of community centres for younger and older persons, planned and funded by the community and facilitated by older persons' alliances with government and civil society;**

(l) **Urge Governments to promote policies and programmes geared at assessing the vulnerability of younger and older generations and reducing or preventing risk through various social protection strategies, including long-term health-care support and its oversight.**